CHAPTER 1

CODE OF ORDINANCES

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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 Cresco, 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 Cresco, Iowa.

3. "Clerk" means the city clerk of Cresco, 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 Cresco, Iowa.

6. "Council" means the city council of Cresco, Iowa.

7. "County" means Howard 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 "Ordinances" means the ordinances of the City of Cresco, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 that 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 this 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 this 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 this Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code of Ordinances in any manner that will cause the law of the City to be misrepresented.

1.11 SEVERABILITY. If any section, provision, or part of this Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of this 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 of City Officers
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 Cresco, 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 OF CITY OFFICERS. 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 two Council Members elected at large and one Council Member from each of three wards as established by this Code of Ordinances, elected for overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two 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. 148 adopting a charter for the City was passed and approved by the Council on November 5, 1973, and was published on November 28, 1973.

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CHAPTER 3

VOTING PRECINCTS AND WARDS

3.01 Definitions
3.02 Wards Established
3.03 Precincts Established
3.04 Correction of Errors
3.05 Publication of Changes

3.01 DEFINITIONS. For the purposes of this chapter, unless the context otherwise requires:

1. "Annexed territory" means territory annexed to the City after Census Day.

2. "Census Day" means April 1, 2010, the official date of the 2010 United States Decennial Census.

3. "City" includes all territory within the Corporate Limits of the City of Cresco and all annexed territory.

4. "Commissioner of Elections" means the County Auditor of Howard County.

5. "Corporate limits" means the corporate limits of the City of Cresco on Census Day.

6. "Legislative District" means a district represented by a member of the House of Representatives of the General Assembly of the State of Iowa.

7. Points of the Compass are approximate unless otherwise stated.

8. "Street" or similar language means the centerline of the right-of-way, and a straight extension of that centerline.

9. All names, boundaries, lines, features and fixtures are to be construed as they existed on Census Day.

3.02 WARDS ESTABLISHED. The City is divided into three (3) Wards, as follows:

1. The First Ward consists of that territory bounded by a line as follows:

Beginning at the West corporate limits on 2nd Ave SW (State Highway 9), thence easterly on 2nd Ave SW (State Highway 9) to the intersection of 2nd Ave SW (State Highway 9) and Elm St., thence northerly on North Elm St. to the intersection of North Elm St. and 3rd Ave E, thence easterly on 3rd Ave E to the intersection of 3rd Ave E and 8th St. E, thence southerly on 8th St E to the intersection of 8th St. E and 2nd Ave SE (State Highway 9), thence easterly on 2nd Ave SE (State Highway 9), to the East corporate limits, thence south along the East corporate limits to the South corporate limits, thence West along the South corporate limits to the West corporate limits, thence North along the West corporate limits to 2nd Ave SW (State Highway 9), being the point of beginning, all of which is part of the Iowa Senate District #26 and Iowa House District #51 and Congressional District #1.

2. The Second Ward consists of that territory bounded by a line as follows:

Beginning at the intersection of 12th Ave E and Division St., and thence southerly along Division St. to the intersection of Division St. and 9th Ave, thence easterly along 9th Ave to the intersection of 9th Ave and North Elm St., thence southerly along North Elm St. to the intersection of North Elm St. and 3rd Ave E, thence easterly along 3rd Ave E to the intersection of 3rd Ave E and 8th St. E, thence southerly along 8th St. E to the intersection of 8th St. E and 2nd Ave SE (State Highway 9), thence easterly along 2nd Ave SE (State Highway 9), to the East corporate limits, thence northerly along the East corporate limits to the North corporate limits, thence westerly along the North corporate limits to the intersection of 12th Ave E and Division St, being the point of beginning, all of which is part of the Iowa Senate District #26 and Iowa House District #51 and Congressional District #1.

3. The Third Ward consists of that territory bounded by a line as follows:

Beginning at the intersection of 12th Ave W and Division St., thence southerly along Division St. to the intersection of Division St. and 9th Ave, thence easterly along 9th Ave to the intersection of 9th Ave and North Elm St., thence southerly along North Elm St. to the intersection of North Elm St. and 2nd Ave SW (State Highway 9), thence westerly along 2nd Ave SW (State Highway 9) to the West corporate limits, thence northerly along the West corporate limits to the North corporate limits, thence easterly along the North corporate limits to the intersection of 12th Ave W and Division St., being the point of beginning, all of which is part of the Iowa Senate District #26 and Iowa House District #51 and Congressional District #1.

3.03 PRECINCTS ESTABLISHED. The City is divided into four (4) Precincts as follows:

1. The First Ward is divided into two (2) Precincts as follows:

A. Precinct 1A consists of that territory bounded by a line as follows:

Beginning at the west corporate limits on Vernon Road; thence northeast on Vernon Road to the intersection of Vernon Road and 7th Ave SW; thence east on 7th Ave SW to the intersection of 7th Ave SW and 3rd St SW; thence north on 3rd St. SW to the intersection of 3rd St. SW and 3rd Ave SW; thence east on 3rd Ave SE to the intersection of 3rd Ave SE and 5th St. SE; thence north on 5th St SE to the intersection of 5th St. SE and 2nd Ave SE (State Highway 9); thence east on 2nd Ave SE (State Highway 9) to the intersection of 2nd Ave SE (State Highway 9) and 8th St E; thence north on 8th St E to the intersection of 8th St. E and 3rd Ave E; thence west on 3rd Ave E to the intersection of 3rd Ave E and North Elm St.; thence south on North Elm St. to the intersection of North Elm St. and 2nd Ave SW (State Highway 9); thence west on 2nd Ave SW (State Highway 9) to the West corporate limits; thence south along the line of the west corporate limits to the Vernon Road being the point of beginning.

B. Precinct 1B consists of that territory located in Ward 1 and not included in Precinct 1A.

2. Precinct 2 consists of all the area located in Ward 2.

3. Precinct 3 shall consist of all the area located in Ward 3.

3.04 CORRECTION OF ERRORS. If this chapter fails to place any part of the City within a ward or precinct established by Ordinance #434, codified by this chapter, the Commissioner of Elections shall assign the omitted area to an adjacent ward or precinct within the same Legislative District. If this chapter places any part of the City in more than one ward or precinct established by Ordinance #434, codified by this chapter, the Commissioner of Elections shall assign that territory to an adjacent ward or precinct within the proper Legislative District. The Commissioner of Elections may also correct obvious clerical errors in this chapter.

3.05 PUBLICATION OF CHANGES. The Commissioner of Elections is hereby directed to publish notice of the boundaries and polling places for the precincts and wards established by this chapter, pursuant to law. The Commissioner of Elections shall also certify a copy of Ordinance #434, and a map drawn in conformance thereto, to the Secretary of State within ten (10) days.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

4.01 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])

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction that 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.

4.03 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.

4.04 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 applicable.

If the citation affects real property and 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, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

4.05 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])

4.06 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 Powers and Duties
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
5.12 Residency Requirement

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day that 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 Cresco 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 offices:

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 POWERS AND DUTIES. 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 that 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[3a])

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[3b])

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

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

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[3e])

5. Newspaper. The designation of an official newspaper.

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

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[3g])

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

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

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[3i])

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars ($1,500.00) in a fiscal year.

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

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[3l])

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[3m])

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)

5.12 RESIDENCY REQUIREMENT. All employees of the Public Works Department of the City and all members of the Police Department are required to reside within the corporate limits of the City or within 2.5 miles of the corporate limits.

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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 twenty-five (25) 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 City Clerk is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter.

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed $150.00 for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the 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.

4. Daily Operations Fund. The finance officer is authorized to draw a check or warrant on the General Fund for establishing a daily operations fund in the amount of $150.00 for the purpose of meeting the daily operations requirements of the office. Said daily operations fund shall be in the custody of the finance officer, and the finance officer shall maintain the integrity of the fund.

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 it deems appropriate in the budget 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 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)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations
8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

8.01 PURPOSE. The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers.

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

1. "Actual value added" means the actual value added as of the first year for which the exemption is received.

2. "Distribution center" means a building or structure used primarily for the storage of goods that are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

3. "New construction" means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. "Research-service facilities" means a building or group of buildings devoted primarily to research and development activities, including (but not limited to) the design and production or manufacture of prototype products for experimental use and corporate research services that do not have a primary purpose of providing on-site services to the public.

5. "Warehouse" means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

(Code of Iowa, Sec. 427B.3)

8.04 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added, which is eligible to be exempt from taxation, shall be as follows:

(Code of Iowa, Sec. 427B.3)

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

8.05 LIMITATIONS. The granting of the exemption under this chapter for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Code of Iowa, Sec. 427B.3)

8.06 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

(Code of Iowa, Sec. 427B.4)

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (30) days after such hearing, the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

(Code of Iowa, Sec. 427B.4)

8.08 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Sec. 427B.5)

8.09 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Sec. 427B.6)

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
257	12-23-94	Industrial Parks Urban Renewal Area
357	10-21-02	Commercial Urban Renewal Area
381	9-8-04	Cresco Urban Renewal Area

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CHAPTER 10

URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
375	5-17-04	Evans Home Assisted Living Urban Revitalization Area
412	11-3-08	Cresco Urban Revitalization Area
439	11-7-11	Amendment No. 1 to Cresco Urban Revitalization Area
458	4-4-16	Evans Home Assisted Living Urban Revitalization Area
459	4-18-16	Cresco Urban Revitalization Plan

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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 two 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 that 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. Police Chief
3. Library Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is $5,200.00 per year, payable in monthly installments.
(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)

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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

CITY 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 two Council Members elected at large and one Council Member from each of three wards, as established by this Code of Ordinances, elected for overlapping terms of four years.

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 that 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 that 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 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. 380.1[a])

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 first and third Mondays of each month at 7:00 p.m., at Council Chambers at City Hall. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as 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 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. City Attorney

3. Planning and Zoning Commission, upon recommendation of the Commission

4. Theater and Champlin Hall Commission, upon recommendation of the Commission

5. Zoning Board of Adjustment, upon recommendation of the Board

6. Parks and Recreation Board, upon recommendation of the Board

7. Airport Commission, upon recommendation of the Commission

17.06 COMPENSATION. The salary of each Council member is $75.00 for each meeting of the Council attended, payable quarterly.
(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) or more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments that by this 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 positions and the time at which they shall assume the duties of their offices.

(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 that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "CRESCO, IOWA," and around the margin of which are the words "CITY SEAL."

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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 Council shall appoint by majority vote 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 that 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 that 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 Cresco 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 eight resident members and one nonresident member. All resident members are to be appointed by the Mayor, with the approval of the Council, upon recommendation of the Board. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. 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 three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before reappointment.

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

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

(Ord. 466 – June 17 Supp.)

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.

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 Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, 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 Library Director, 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 Library Director 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 which 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 months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one 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

THEATRE AND CHAMPLIN HALL COMMISSION

22.01 Organization of the Commission **22.02 Powers and Duties**

22.01 ORGANIZATION OF THE COMMISION. The organization of the Commission shall be as follows:

1. Appointment of Members. The Council shall appoint a Commission for the development of properties as a theater and community center, which Commission shall consist of seven members, to be appointed by the Council, upon recommendation of the Commission. No more than three members may reside outside of the City limits. Members shall be over the age of 18.

2. Term of Office. All appointments to the Commission shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before reappointment.

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

4. Compensation. Commissioners shall receive no compensation for their services.

(Ord. 466 – June 17 Supp.)

22.02 POWERS AND DUTIES. The Theatre Commission shall have the following powers and duties:

1. To prescribe rules and regulations for the operation and maintenance of the Theatre for the showing of motion pictures and live performances.

2. To make leases or other agreements for the operation of the Theatre by other parties. Lease agreements shall be approved by the Council and signed by the Mayor.

3. To develop and administrate rules and regulations for the use of Champlin Hall, and to maintain timely communication with the Council regarding necessary construction, maintenance and repairs.

4. To collect and receive pledges, donations, grants, and gifts for the Theatre or Champlin Hall, and to provide to the City such donated funds for the improvement or maintenance of the Theatre or Champlin Hall, or as may be specifically directed by the donors.

5. To perform such other reasonable duties as may be directed by the Council or to advance the interests of the Theatre.

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties
23.06 Fee for Hearing

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members appointed by the Council upon recommendation of the Commission. 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)

23.02 TERM OF OFFICE. All appointments to the Board shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before reappointment. ***(Ord. 466 – June 17 Supp.)***

23.03 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)

23.04 COMPENSATION. Commissioners shall receive no compensation for their services. ***(Ord. 466 – June 17 Supp.)***

23.05 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 on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after thirty (30) days' written notice requesting such recommendations, has failed to file the same.

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivisions or re-subdivisions of land 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. 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 that are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

7. 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)

8. 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 and disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

23.06 FEE FOR HEARING. Any person requesting to be heard by the Planning and Zoning Commission shall pay a fee of one hundred dollars ($100.00). A hearing for a subdivision inside the City limits shall be charged a fee of two hundred fifty dollars ($250.00). A hearing for a subdivision outside the City limits shall be charged a fee of five hundred dollars ($500.00).

CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Established
24.02 Organization of the Board
24.03 Jurisdiction
24.04 Powers and Duties
24.05 Rules and Regulations
24.06 Annual Report

24.01 PARKS AND RECREATION BOARD ESTABLISHED. A Parks and Recreation Board is hereby established to advise the Council on the needed facilities to provide open space such as parks, playgrounds, a fitness center and other similar community facilities.

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

1. Appointment of Members. The Board shall consist of five members, to be appointed by the Council, upon recommendation of the Commission. All members must reside inside the City limits. Members shall be over the age of 18. The Board Members shall select one person to act as Chairperson and one person to act as Secretary.

2. Term of Office. All appointments to the Board shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before reappointment.

3. Vacancies. The position of any member shall be vacated if such member moves permanently from the City. The position of any member 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.

4. Compensation. Commissioners shall receive no compensation for their services.

(Ord. 466 – June 17 Supp.)

24.03 JURISDICTION. The jurisdiction of the Parks and Recreation Board shall extend over all lands used for parks of any kind and the recreation facility referred to as the Cresco Fitness Center.

24.04 POWERS AND DUTIES. The Board has control and supervision of the parks, playgrounds, and swimming pools owned by the City or set apart for recreational purposes and shall establish rules and regulations governing their use and the protection of property therein. The Board may appoint a Park Superintendent to carry out these duties at a salary to be determined by resolution of the Council from time to time.

24.05 RULES AND REGULATIONS. A copy of the rules and regulations adopted by the Board for the government of the parks and public grounds shall be entered of record in the proceedings of the Board, and a copy thereof, signed by the Board members, shall be posted at each gate or principal entrance to such park or public grounds.

24.06 ANNUAL REPORT. The Board shall make an annual detailed report to the Council immediately after the close of each municipal fiscal year of the amounts of money expended and the purposes for which used. Such annual statement shall be published as part of the annual municipal report.

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CHAPTER 25

AIRPORT COMMISSION

25.01 Airport Commission
25.02 Appointment and Term
25.03 Vacancies
25.04 Compensation
25.05 Bond
25.06 Officers
25.07 Powers and Duties
25.08 Annual Report

25.01 AIRPORT COMMISSION. There shall be an Airport Commission consisting of five members, each of whom shall be a resident of the City of Cresco or a resident of a city or county in the State served by the airport. At least three of the members shall be residents of the City of Cresco.

(Code of Iowa, Sec. 330.20)

25.02 APPOINTMENT AND TERM. Commissioners shall be appointed by the Council, upon recommendation of the Commission. All appointments to the Board shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before reappointment.

(Ord. 466 – June 17 Supp.)

25.03 VACANCIES. Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.

(Code of Iowa, Sec. 330.20)

25.04 COMPENSATION. Members of the Commission shall serve without compensation.

(Code of Iowa, Sec. 330.20)

25.05 BOND. Each Commissioner shall execute and furnish a bond in the amount fixed by the City and the bond shall be filed with the City Clerk.

(Code of Iowa, Sec. 330.20)

25.06 OFFICERS. The Commission shall elect from its own members a Chairperson and Secretary who shall serve for such term as the Commission shall determine.

(Code of Iowa, Sec. 330.20)

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

1. General. The Commission has all the powers in relation to airports granted to cities under State law except powers to sell the airport.

(Code of Iowa, Sec. 330.21)

2. Budget. The Commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the Council may include all or a portion of said amount in its budget.

(Code of Iowa, Sec. 330.21)

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the Commission for the purposes prescribed by law, and shall be deposited with the Treasurer or City Clerk to the credit of the Airport Commission, and shall be disbursed only on the written orders of the Airport Commission, including the payment of all indebtedness arising from the acquisition and construction of airports and the maintenance, operation, and extension thereof.

(Code of Iowa, Sec. 330.21)

25.08 ANNUAL REPORT. The Airport Commission shall immediately after the close of each municipal fiscal year, file with the City Clerk a detailed and audited written report of all money received and disbursed by the Commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

(Code of Iowa, Sec. 330.22)

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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

30.01 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 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.

(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

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

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

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items that 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)

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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

35.01 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. At no time shall the department have less than fifteen (15) members. Any resident of the City over eighteen (18) years of age is eligible for membership. The Fire Chief may allow not more than twenty percent (20%) of the total membership to live outside the City limits, but within eight (8) road miles of the Fire Station.

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 for a two-year term a Chief and such other officers as the department's constitution and bylaws may provide, but the election of the Chief shall be subject to the approval of the Council. In case of absence of the Chief, the officer next in rank shall be in charge and have and exercise all the powers of the 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 that under law or ordinance may be necessary to be made and that 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.

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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 that is intended to cause pain or injury to another or that is intended to result in physical contact that 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 that 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])

An act described in subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the 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 of serious injury or breach of the peace; (ii) if the person doing any of the 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, 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 that 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 that 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 that 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 that 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 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 Providing False Identification Information
41.04 Refusing to Assist Officer
41.05 Harassment of Public Officers and Employees
41.06 Interference with Official Acts
41.07 Abandoned or Unattended Refrigerators
41.08 Antenna and Radio Wires
41.09 Barbed Wire and Electric Fences
41.10 Discharging Weapons
41.11 Throwing and Shooting
41.12 Urinating and Defecating
41.13 Fireworks
41.14 Removal of an Officer's Communication or Control Device.

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 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to 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 that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

41.04 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)

41.05 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)

41.06 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 that 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)

41.07 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)

41.08 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])

41.09 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.

41.10 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.

41.11 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])

41.12 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.

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

(Code of Iowa, Sec. 727.2)

1. Definition. Consumer fireworks shall have the same meaning as defined in Iowa Code Section 727.2.

2. Unlawful Discharge. It is a misdemeanor for any person to discharge or explode firecrackers, rockets, torpedoes, Roman candles, or other fireworks designed and intended for pyrotechnic display within the City limits.

3. Exception. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

B. Property Damage.....$50,000

C. Total Exposure $1,000,000

4. Other Exceptions. This section does not prohibit 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.

5. Sales. No person shall sell or offer for sale consumer grade fireworks without first securing a Retail Fireworks License through the State Fire Marshal's Office for the State of Iowa.

A. City permit. An application must be filed with City Hall that includes:

(1) The location and dates for the sale of fireworks. Sales of consumer fireworks are allowed only within districts zoned as Commercial C-1 or C-2 and Industrial M-1.

(2) Proof of licensing from the Office of the State Fire Marshal.

(3) Proof of liability insurance covering all aspects of consumer fireworks sales for a minimum amount per occurrence of $1,000,000 and a minimum aggregate amount of $2,000,000.

(4) Sales within a permanent structure or building shall be allowed between June 1 and July 8 and from December 10 until January 3.

(5) Approved temporary structure or stand sales shall be allowed between June 13 and July 8.

(Section 41.13 – Ord. 479 – Jul. 19 Supp.)

41.14 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE. No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

(Code of Iowa, Sec. 708.12)

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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 Unauthorized Computer Access
42.08 Other Public Property Offenses

42.01 TRESPASSING.

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

(Code of Iowa Sec. 716.8)

2. Definitions. For purposes of this section:

(Code of Iowa Sec. 716.7[1])

A. "Property" includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. "Public utility" is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. "Public utility property" means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. "Railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. "Railway property" means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

F. "Trespass" means one or more of the following acts:

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

(1) 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.

(2) 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 the agent or employee of 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.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) 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.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. "Trespass" does not mean either of the following:
(Code of Iowa Sec. 716.7[2b])

A. 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. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

B. Entering upon the right-of-way of a public road or highway.

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 UNAUTHORIZED COMPUTER ACCESS. It is unlawful for a person to knowingly and without authorization access a computer, computer system, or computer network.

(Code of Iowa, Sec. 716.6B)

42.08 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that 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 explaining or depicting 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 that 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 in a public place.

3. A person shall not simulate intoxication in a public place.

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency

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 that 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 that 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, that 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 5:00 a.m. on any day of the week or on any weekend.

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 or before the beginning of work;

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

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

(4) School activity or, if traveling, within one hour after the end or before the beginning 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 or before the beginning 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 nonsecured 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. Any parent, guardian, or other adult person responsible for or having the legal care, custody, and control of any minor, and who allows, permits, or suffers such minor to violate any of the provisions of this chapter, shall be guilty of a simple misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $100.00 for the first offense and not to exceed $250.00 for a second or subsequent offenses. Any owner or operator who allows, permits, or suffers any minor to be in or upon any place of business or amusement in violation of this chapter and who fails to order such minor to leave the premises, or fails to notify the Police Department that such minor was ordered to leave the premises and has refused, shall be guilty of a simple misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $100.00 for a first offense and not to exceed $250.00 for a second or subsequent offenses.

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

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

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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 Areas
47.07 Camping Refused

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 11:00 p.m. and 6:00 a.m. unless there is a league-scheduled late game. Persons must leave promptly after the game.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council.

47.07 CAMPING REFUSED. The City may refuse camping privileges or rescind any and all camping privileges for cause.

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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 that are deemed to be nuisances in the City:

1. Offensive Smells. Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, 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. Stagnant Water. Artificially creating, maintaining, causing or allowing to exist any stagnant water standing on any property, including any container or material kept in such a condition that water can accumulate and stagnate therein.

6. 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.

7. Billboards. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that 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)**

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

9. Outdoor Storage. Storage of the following items in outdoor areas or in partially enclosed sheds, lean-tos or other structures not entirely enclosed by structural walls, roof and properly functioning doors: building materials not part of an active building project; auto parts; miscellaneous steel, plastic, rubber or metal parts or junk; tires; packing boxes; wooden pallets; tree limbs; brush piles; discarded lumber, not including neatly stacked and cut firewood; broken or unused furniture and appliances; any upholstered or finished furniture intended for indoor usage; plastic tarps; trash bags and other unused furnishings or equipment including carpeting, appliances and other typical items intended for indoor usage; plastic tarps; trash bags containing leaves, debris, garbage or other items; trash and garbage not properly contained within a trash disposal container; or any other discarded or miscellaneous item or items not normally required in the day to day use of the exterior area of the property, when stored continuously in excess of 7 days on any portion of any property outside of a totally enclosed structure located on the property.

10. Attractive Nuisances. Any attractive nuisance dangerous to children in the form of abandoned vehicles, abandoned or broken equipment, including abandoned refrigerators, hazardous pools, ponds, excavations, materials, including building material, debris or neglected machinery.

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

12. 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. **(See also Chapter 52)**

13. Diseased Trees. Trees infected with Dutch Elm disease, Emerald Ash Borer or other infectious disease or pest as identified by the city arborist or street department supervisor; or any dead, diseased or damaged trees or plant material which may harbor serious insect or disease pest or disease injurious to other trees or plant material, or any healthy tree in such a state of deterioration that any part of such tree is likely to fall and damage property or cause injury to persons.

14. 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. **(See also Chapter 175)**

15. 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 activity prohibited ty the Code of Iowa or any Federal regulation or law or places resorted to by persons using controlled substances, as defined by the Code of Iowa or any Federal regulation or law, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on to the disturbance of others.

16. Unoccupied Buildings. Any building or portion of a building which is unsecured or abandoned and not maintained as if occupied.

17. Structural Maintenance. All structures, both commercial and residential, including detached accessory structures, shall be free of significant observable structural defects. The term “free from significant observable structural defects” means:

A. Roofing materials shall be made up of consistent materials and consistent coloration throughout the roof area. All chimneys, smoke stacks or similar appurtenances shall be maintained in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

B. Drainage gutters and downspouts shall be securely attached to the structure.

C. All exterior trim and exterior exposed surfaces, including siding materials, must be sound, in good condition and securely attached to the structure.

D. Exterior walls must be free of holes and made of a consistent material, such that patches or repairs consisting of dissimilar material or colors compared to the prevailing surface material of the exterior walls are not present.

E. The foundation shall be free from cracks, breaks and holes so as to prevent the entry of animals.

F. Windows and doors, including outer screen or storm windows and doors, must be intact, containing no holes, and squarely hung. The windows shall have intact glass or normal window material that allows the entry of light. No windows, doors or building exteriors shall be covered with, but not limited to, aluminum foil, cardboard, plywood or plastic, except during construction or pending repairs not exceeding thirty (30) days or (for plastic) during the winter as insulation.

G. All ingress/egress steps and porches of the structure must be of a secure and safe design shall be maintained in an intact manner, with no loose boards or surface materials.

H. Exterior wall surfaces shall be properly painted and/or maintained with appropriate exterior wall materials, including wood, vinyl, painted/colored steel or similar metal siding materials, stucco or exterior insulation finish system materials, brick or similar masonry materials, that are in all cases intact, not in a condition of deterioration, are of uniform coloration and are not patched with dissimilar material. Plastic wrap or building wrap material shall not be considered to be an acceptable siding material. No flaking or chipped paint or outer loose material which dominates or detracts from the exterior appearance of the structure. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Oxidation stains shall be removed from exterior surfaces.

I. All fencing, including gates, shall be maintained in good condition and free from damage, breaks, holes or missing structural members. All fencing shall be made of consistent materials and coloration.

J. Detached accessory structures, including garages and storage sheds, must conform to the standards outlined above. No plastic or building wrap material or tarps shall be used to substitute for doorways or windows.

18. Fences. Any wall, fence or hedge in such condition as to constitute a hazard to persons or property or which obstructs or impedes the free passage through or on adjacent streets, alleys or sidewalks.

19. Discarded Material. Any discarded or unused material on real property that is not consistent with the condition and visual appearance of surrounding adjacent real properties. Types of unacceptable material include those items enumerated in other subsections of this chapter and also include household fixtures, cans, containers, appliances, dirt and gravel piles, rock piles, eroded soil areas, pits, holes and excavations.

20. Vermin. Creating, maintaining, causing or allowing to exist conditions which are conducive to the harborage or breeding of vermin; or allowing to exist infestations of vermin, such as rats, mice, skunks, snakes, starlings, pigeons, wasps, cockroaches or flies.

21. Construction Projects. Construction projects that are on-going for more than twelve months (except those with a valid building permit time extension due to extenuating circumstances as determined by the Public Works Director). This shall apply also to all exterior work that does not require a city building permit. Scattered building or repair materials shall not be permitted

(Ord. 461 – Jun. 16 Supp.)

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**
5. Weeds **(See Chapter 52)**

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: †

† **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

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

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

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 that 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])

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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.

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars ($500.00), 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 4 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 Declared a Nuisance
51.04 Notice of Violation
51.05 Violation a Simple Misdemeanor
51.06 Violation a Municipal Infraction
51.07 Exceptions

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 licensed or unlicensed motor vehicle stored within the corporate limits of the City, and/or which has any of the following characteristics:

A. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

B. Any vehicle if it lacks an engine or one or more wheels or tires or other structural parts which render said motor vehicle totally inoperable or unable to move under its own power.

C. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass which renders the vehicle unsafe or illegal for operation on a public street or highway.

D. Any vehicle with a broken or loose fender, door, bumper, hood, running board, steering wheel, trunk top or tail pipe.

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

F. Any vehicle which has not been moved under its own power or used as an operating vehicle for a period of seven (7) days or more.

3. "Unlicensed vehicle" means any vehicle that is required to be licensed if it is operated on a public street or highway but which is not displaying a valid and current license. For purposes of this chapter, a valid current license shall not be required for a vehicle which is permanently stored in a fully enclosed structure.

4. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include, without limitation, a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, motor scooter, all-terrain vehicle 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 public or private property within the corporate limits of the City any junk or junk vehicle.

51.03 JUNK AND JUNK VEHICLES DECLARED A NUISANCE. It is hereby declared that the unlawful storage of any junk or junk vehicle upon either public or private property within the corporate limits of the City constitutes a threat to the health and safety of the citizens and is a nuisance. If any junk or junk vehicle is unlawfully stored upon private property in violation hereof, the owner or possessor of said vehicle and the owner of the property shall be liable for said violation.

51.04 NOTICE OF VIOLATION. Upon discovery of any junk or junk vehicle stored upon private property within the corporate limits of the City, the City Public Works Director shall notify the owner of the junk or junk vehicle and the owner of the property and any lien holders, if they can be identified, by mailing a copy of the notice of violation by certified mail, return receipt requested or by delivering a copy of the notice personally. The notice of violation shall state:

1. The junk or junk vehicle constitutes a nuisance under the provisions of this section.

2. A description, to the extent possible, of the junk or the year, make, model, color and location of the junk vehicle.

3. The owner of the junk or junk vehicle and/or property owner must remove the junk or junk vehicle or correct the violation in accordance with this section.

4. Failure to comply with the provisions of this section within fifteen (15) days from the date of mailing or service of the notice shall cause the owner of the junk or junk vehicle and the property owner to be liable for the violation.

Notice shall be deemed given when mailed. If the notice is returned undelivered by the U.S. Post Office, a citation for the offense shall be issued not less than ten days from the date of the return showing non-delivery.

51.05 VIOLATION A SIMPLE MISDEMEANOR. Any person violating this chapter or any provisions thereof, or who fails to comply with any order of the Public Works Director or obstructs the Public Works Director in his investigation shall be guilty of a simple misdemeanor and upon conviction may be punished as provided in Section 1.14 of this Code of Ordinances.

51.06 VIOLATION A MUNICIPAL INFRACTION. A violation of the provisions of this chapter may also be considered a municipal infraction, as provided in *Code of Iowa* Section 364.22. If a municipal infraction citation is served, the procedures for enforcement of the civil offense shall be governed by Chapter 4 of this Code of Ordinances.

51.07 EXCEPTIONS. The provisions of this chapter shall not apply to the following:

1. Any junk or junk vehicle stored within a garage or other fully enclosed structure.

2. Any person or entity that is the bona fide operator of a business engaged in towing, repairing or storing of junk vehicles, vehicles, construction or heavy equipment or machinery and is otherwise in full compliance with all of the ordinances of the City and the laws of the State of Iowa.

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CHAPTER 52

WEEDS

52.01 Purpose
52.02 Duty to Cut Grass
52.03 City Action
52.04 Duty of Adjoining Property Owner
52.05 Notice

52.01 PURPOSE. The purpose of this chapter is to provide for the cutting by the property owners of all grass longer than six inches and the cutting or destruction by the property owners of all weeds, vines, brush, or other growth that constitutes a health, safety, or fire hazard and to provide for such cutting or destruction by the City and for the assessment of the cost and expenses thereof to the property owner in the event of the owner's failure to comply after due notice.

52.02 DUTY TO CUT GRASS. The owner of any property shall cut grass longer than six inches and cut or destroy all weeds, vines, brush, or other growth that constitutes a health, safety, or fire hazard.

52.03 CITY ACTION. If a property owner refuses or fails to cut grass longer than six inches and fails to cut or destroy weeds, vines, brush, or other growth that constitutes a health, safety, or fire hazard, the Council may cause said grass longer than six inches to be cut and cause said weeds, vines, brush, or other growth to be cut or destroyed, and the cost and expenses thereof shall be assessed to the property owner after due notice is given. The amount of such assessment shall be certified to the County Treasurer, as provided by law, and the same shall be collected with and in the same manner as general property taxes.

52.04 DUTY OF ADJOINING PROPERTY OWNER. The owner of the real estate adjoining a boulevard, being the portion of the right-of-way owned by the City lying between the edge of the public road or street to the edge of the real estate owned by the property owner, shall maintain the boulevard property. That is, the adjoining property owner shall be responsible for cutting the grass longer than six inches and cutting or destroying the weeds, vines, brush, or other growth on the boulevard property. The Council may cause said grass longer than six inches to be cut and cause said weeds, vines, brush, or other growth to be cut or destroyed and the cost and expense thereof shall be assessed to the adjoining property owner after due notice is given. The amount of such assessment shall be certified to the County Treasurer, as provided by law, and the same shall be collected with and in the same manner as general property taxes.

52.05 NOTICE. Notice of the action of the Council to provide for the cutting of grass longer than six inches and the cutting or destruction of weeds, vines, brush, or other growth shall be served on the property owner, as provided in Section 52.03 of this chapter, or served on the adjoining property owner as provided in Section 52.04, by serving a copy of a resolution of the Council, directing said property owner to cut grass longer than six inches and to cut or destroy weeds, vines, brush, or other growth within a specified time, either personally or by mailing a copy of such resolution to the owner of property, to the last known address of the owner.

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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 Number of Animals Limited
55.10 Rabies Vaccination
55.11 Owner's Duty
55.12 Confinement
55.13 At Large: Impoundment
55.14 Disposition of Animals
55.15 Impounding Costs
55.16 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 that 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 that 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 corporate limits of the City except in an area zoned for this purpose.

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. When an owner/keeper walks a dog, the dog must be on a leash and all pet waste must be picked up and disposed of properly.

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 by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 NUMBER OF ANIMALS LIMITED. It is unlawful to harbor or house on one premises more than three dogs or three cats or any combination thereof, not exceeding a total of three over the age of six months, except in a licensed kennel or pet shop, veterinary hospital or animal grooming shop.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs

kept in State or Federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.11 OWNER'S DUTY. It is the duty of the owner of any dog, cat, or other animal that 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)

55.12 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)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.14 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)

55.15 IMPOUNDING COSTS. Impounding costs are forty dollars ($40.00) for the pickup fee, plus five dollars ($5.00) per day for food and care.

(Code of Iowa, Sec. 351.37)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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 that 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

WILD OR DANGEROUS ANIMALS

56.01 Definitions
56.02 Keeping of Wild or Dangerous Animals Prohibited
56.03 Seizure, Impoundment, and Disposition

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

1. "Dangerous animal" means any animal (including a dog) which has bitten or clawed a person and the attack was unprovoked, or any animal that has exhibited vicious propensities in the past or present, including such that said animal (i) has bitten or clawed a person on one or more occasions within a 12-month period; or (ii) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (iii) has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

2. "Wild animal" means: (i) any animal that is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; and (ii) the following animals, which are deemed to be wild animals per se:

A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;

B. Wolves, coyotes and foxes;

C. Badgers, wolverines, weasels, skunk and mink;

D. Raccoons;

E. Bears;

F. Monkeys and chimpanzees;

G. Bats;

H. Alligators, crocodiles and caimans;

I. Scorpions;

J. Snakes and reptiles that are venomous;

K. Snakes that are constrictors, regardless of size or length;

L. Gila monsters;

M. Opossums;

N. All apes, baboons and macaques;

O. Piranhas.

56.02 KEEPING OF WILD OR DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any wild or dangerous animal as a pet within the City or act as a temporary custodian for such animal, or keep, shelter, or harbor such animal for any other purpose or in any other capacity within the City except in keeping of wild or dangerous

animals in a public zoo or public circus for exhibition to the public, or by a licensed veterinarian or veterinary clinic.

56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a wild animal or dangerous animal is found at large and unattended, thereby creating a hazard to the public, such animal may, in the discretion of the Police Chief or any peace officer, be destroyed. The City shall be under no duty to attempt to capture or confine a wild or dangerous 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 wild or dangerous animal in the City, the Police Chief 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 wild or dangerous animal in the City, the Police Chief or peace officer shall immediately seize such animal, or as an alternative, the officer shall order in writing that the person named in the complaint safely remove such animal from the City, either by disposing of the animal by sale, or permanently placing the animal with a licensed humane society, or destroying the animal in a humane manner, within forty-eight (48) hours of receipt of such order. If the peace officer seized the animal immediately, the animal shall be impounded for a period of five (5) days. If at the end of the impoundment period, the owner of the wild or dangerous animal has not petitioned the Council, seeking the return of the animal for the purpose of safely removing the animal from the City by disposing of the animal by sale or permanently placing the animal with a licensed humane society or destroying the animal in a humane manner, the Police Chief or peace officer shall cause the animal to either be disposed of by sale, or permanently place the animal with a licensed humane society, or destroy the animal in a humane manner. In the event the owner of the wild or dangerous animal files a petition with the Council seeking the return of such wild or dangerous animal, the Council, with the Mayor present, shall conduct a hearing, with the Mayor presiding at the hearing. At the hearing, evidence shall be presented as to whether the alleged animal is a wild or dangerous animal as defined in this chapter. If the Council finds and adjudges that the animal is a wild or dangerous animal, then the officer shall either dispose of the animal by sale or permanently place the animal with a licensed humane society or destroy the animal in a humane manner following a period of 48 hours after the order is submitted to the Council.

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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 "Cresco 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 area zoned C-2.

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 schoolhouse.

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 chapter 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 City 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. No fee shall be required for such permit. Permit forms are available at City Hall.

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 Traffic Control Devices
61.02 Installation
61.03 Compliance
61.04 Crosswalks
61.05 Traffic Lanes
61.06 Necessity of Signs
61.07 Standards

61.01 TRAFFIC CONTROL DEVICES. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.

61.02 INSTALLATION. The Council shall cause to be placed and maintained traffic control devices to carry out the provisions of the Traffic Code of the City under State law or to regulate, guide or warn traffic. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 & 321.255)

61.03 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)

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

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

61.05 TRAFFIC LANES. Where traffic lanes have been marked on street pavements at such places as traffic conditions require, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

61.06 NECESSITY OF SIGNS. No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in a viewable position and sufficiently legible to an ordinarily observant person.

61.07 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)

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 Noise Violations
62.08 Small Recreational Vehicles

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; exception.
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 – Speed detection 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 321.276 – Use of electronic communication device while driving; text-messaging.

45. Section 321.277 – Reckless driving.

46. Section 321.277A – Careless driving.

47. Section 321.278 – Drag racing prohibited.

48. Section 321.281 – Actions against bicyclists.

49. Section 321.284 – Open container; drivers.

50. Section 321.284A – Open container; passengers.

51. Section 321.288 – Control of vehicle; reduced speed.

52. Section 321.295 – Limitation on bridge or elevated structures.

53. Section 321.297 – Driving on right-hand side of roadways; exceptions.

54. Section 321.298 – Meeting and turning to right.

55. Section 321.299 – Overtaking a vehicle.

56. Section 321.302 – Overtaking and passing.

57. Section 321.303 – Limitations on overtaking on the left.

58. Section 321.304 – Prohibited passing.

59. Section 321.306 – Roadways laned for traffic.

60. Section 321.307 – Following too closely.

61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

62. Section 321.309 – Towing; convoys; drawbars.

63. Section 321.310 – Towing four-wheel trailers.

64. Section 321.312 – Turning on curve or crest of grade.

65. Section 321.313 – Starting parked vehicle.

66. Section 321.314 – When signal required.

67. Section 321.315 – Signal continuous.

68. Section 321.316 – Stopping.

69. Section 321.317 – Signals by hand and arm or signal device.

70. Section 321.318 – Method of giving hand and arm signals.

71. Section 321.319 – Entering intersections from different highways.

72. Section 321.320 – Left turns; yielding.

73. Section 321.321 – Entering through highways.

74. Section 321.322 – Vehicles entering stop or yield intersection.

75. Section 321.323 – Moving vehicle backward on highway.

76. Section 321.323A – Approaching certain stationary vehicles.

77. Section 321.324 – Operation on approach of emergency vehicles.

78. Section 321.324A – Funeral processions.

79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.

80. Section 321.330 – Use of crosswalks.

81. Section 321.332 – White canes restricted to blind persons.

82. Section 321.333 – Duty of drivers approaching blind persons.

83. Section 321.340 – Driving through safety zone.

84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

85. Section 321.342 – Stop at certain railroad crossings; posting warning.

86. Section 321.343 – Certain vehicles must stop.

87. Section 321.344 – Heavy equipment at crossing.

88. Section 321.344B – Immediate safety threat; penalty.

89. Section 321.354 – Stopping on traveled way.

90. Section 321.359 – Moving other vehicle.

91. Section 321.362 – Unattended motor vehicle.

92. Section 321.363 – Obstruction to driver's view.

93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.

94. Section 321.365 – Coasting prohibited.

95. Section 321.367 – Following fire apparatus.

96. Section 321.368 – Crossing fire hose.

97. Section 321.369 – Putting debris on highway.

98. Section 321.370 – Removing injurious material.

99. Section 321.371 – Clearing up wrecks.

100. Section 321.372 – School buses.

101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

102. Section 321.381A – Operation of low-speed vehicles.

103. Section 321.382 – Upgrade pulls; minimum speed.

104. Section 321.383 – Exceptions; slow vehicles identified.

105. Section 321.384 – When lighted lamps required.

106. Section 321.385 – Head lamps on motor vehicles.

107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

108. Section 321.387 – Rear lamps.

109. Section 321.388 – Illuminating plates.

110. Section 321.389 – Reflector requirement.

111. Section 321.390 – Reflector requirements.

112. Section 321.392 – Clearance and identification lights.

113. Section 321.393 – Color and mounting.

114. Section 321.394 – Lamp or flag on projecting load.

115. Section 321.395 – Lamps on parked vehicles.

116. Section 321.398 – Lamps on other vehicles and equipment.

117. Section 321.402 – Spot lamps.

118. Section 321.403 – Auxiliary driving lamps.

119. Section 321.404 – Signal lamps and signal devices.

120. Section 321.404A – Light-restricting devices prohibited.

121. Section 321.405 – Self-illumination.

122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.450 – Hazardous materials transportation.
150. Section 321.454 – Width of vehicles.
151. Section 321.455 – Projecting loads on passenger vehicles.
152. Section 321.456 – Height of vehicles; permits.
153. Section 321.457 – Maximum length.
154. Section 321.458 – Loading beyond front.
155. Section 321.460 – Spilling loads on highways.
156. Section 321.461 – Trailers and towed vehicles.

157. Section 321.462 – Drawbars and safety chains.

158. Section 321.463 – Maximum gross weight.

159. Section 321.465 – Weighing vehicles and removal of excess.

160. Section 321.466 – Increased loading capacity; 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 NOISE VIOLATIONS. It is unlawful for any person to operate a vehicle's stereo, radio, or other sound equipment, whether the vehicle is in operation or not, at such a level that it causes unreasonable distress to citizens, or constitutes a nuisance or breach of public peace, as set forth in Chapter 40 of this Code of Ordinances.

62.08 SMALL RECREATIONAL VEHICLES.

1. Operator License. Operators of all motor vehicles, including (but not limited to) motor scooters, mini-bikes, go-carts, terra-mobiles and motorized bicycles, operated on the public street are required to be properly licensed in accordance with the *Code of Iowa*, except motorized wheel chairs may be operated for the purpose of transporting the disabled and lawn mowers operated for the purpose of mowing the grass may use the public street to take the most direct route from one residence to another.

2. Sidewalk Operation of Motorized Vehicles. The operation of all motorized vehicles, including (but not limited to) motor scooters and motorized bicycles, is prohibited on public sidewalks. However, motorized wheel chairs may operate on a public sidewalk for the purpose of transporting the disabled.

3. Special Penalty. Any person violating the provisions of this section may, in lieu of the standard penalty, allow the person's recreational vehicle to be impounded by the City for not less than thirty (30) days for the first offense, sixty (60) days for the second offense and ninety (90) days for the third offense.

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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 Zones
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 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. In any alley.

   B. North Schroder Drive from Eighth Street East to Tenth Street East.

   C. South Schroder Drive from Eighth Street East to Tenth Street East.

   D. Tenth Street East from North Schroder Drive to South Schroder Drive.

   E. Eighth Street East from Gillette Avenue to Fifth Avenue East.

F. Second Avenue East from East Second Street to East Third Street.

G. Second Street East from North Park Place to First Avenue East when children are present.

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. Vernon Road from Highway 9 West to Fifth Avenue Southwest.

B. Sixth Avenue West from Granger Road (Third Street West) to Donaldson Road.

C. County Road V-58 (Granger Road) from Twelfth Avenue to Tenth Avenue Southwest.

D. Twelfth Avenue East from Yankee Avenue to a point 154 feet east of the center of the intersection of North Elm Street and Twelfth Avenue.

3. 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. Vernon Road from Fifth Avenue Southwest to Tenth Avenue Southwest.

4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Vernon Road from Tenth Avenue Southwest to south City limits.

B. Sixth Avenue West from Donaldson Road West to Valley Avenue.

C. County Road V-58 (Granger Road) from Tenth Avenue Southwest to south City limits.

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**

64.01 TURNING AT INTERSECTIONS. The driver of a vehicle intending to turn at an intersection shall do so as follows:

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.

(Code of Iowa, Sec. 321.311)

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 any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield
65.02 School Stops
65.03 Stop Before Crossing Sidewalk
65.04 Stop When Traffic Is Obstructed
65.05 Yield to Pedestrians in Crosswalks

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

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

(Code of Iowa, Sec. 321.249)

65.03 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)

65.04 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.

65.05 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 erected in accordance with Chapter 61 of this Traffic Code.

(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 streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 & 475)

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, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle 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 those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, 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 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

67.01 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)

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Park Adjacent to Curb – One-Way Street
69.04 Angle Parking
69.05 Angle Parking – Manner
69.06 Parking for Certain Purposes Illegal
69.07 Parking Prohibited
69.08 Persons With Disabilities Parking
69.09 Truck Parking Limited
69.10 Snow Removal
69.11 Controlled Access Facilities

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. 3rd Avenue West, on the south side of the 200 block.

2. Pine Place, on the east side of the 200 block.

3. 1st Avenue West, on the south side of the 200 block.

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 24 hours, unless otherwise limited under the provisions of Section 69.01 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 the Code of Ordinances.

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

1. Crosswalk. On a crosswalk.

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

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

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

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

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. Boulevard Parking. No person shall park a motor vehicle, recreational vehicle, camper, trailer, or any other vehicle or equipment upon the boulevard in any district for more than 48 consecutive hours. "Boulevard" includes that area traditionally recognized as a boulevard area located between a sidewalk and a street and also includes the area located between the lot line and the curb line, whether there are curbs installed or not and whether there are sidewalks installed or not. This subsection shall not apply to any bona fide automobile seller or dealer licensed to sell automobiles in the City.

18. 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.

69.08 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa

Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;

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

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

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*.

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

2. Residential District. No person shall park a semi-trailer on any street within a residential district in the City for longer than twenty-four (24) hours.

3. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or driveway of any service station between the hours of 9:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the driveway of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

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

69.10 SNOW REMOVAL. On odd number calendar days beginning at 5:00 p.m., parking is allowed only on the odd numbered side of the street (east side) or avenue (south side) until 5:00 p.m. of the next day. On even number calendar days beginning at 5:00 p.m., parking is

allowed only on the even numbered side of the street (west side) or avenue (north side) until 5:00 p.m. of the next day. This parking regulation is enforced whether it snows or does not snow during the period beginning November 15 through April 15.

69.11 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

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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 fifteen dollars ($15.00) for all violations except improper use of a persons with disabilities parking permit. 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 improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

(Code of Iowa, Sec. 321.236 [1b] & 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.

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 74

GOLF CARTS AND UTVs (UTILITY TRAIL VEHICLES)

74.01 Purpose
74.02 Definitions
74.03 Operation of Golf Carts and UTVs Permitted
74.04 Prohibited Streets
74.05 Equipment
74.06 Hours
74.07 Speed
74.08 Passengers
74.09 Operation
74.10 Permits
74.11 Violation and Penalty
74.12 City Celebration Waiver

74.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts, as authorized by Section 321.247 of the Code of Iowa, as amended, and "UTVs" (utility trail vehicles), as authorized by Section 321.234A of the Code of Iowa, as amended, on certain streets in the City. This chapter applies whenever a golf cart or UTV is operated on any street or alley, subject to those exceptions stated herein.

74.02 DEFINITIONS.

1. "Golf cart" means a four wheeled recreational vehicle generally used for the transportation of person(s) in the sport of golf, that is limited in engine displacement to less than 800 cubic centimeters (or the electric equivalent) and total dry weight of less than 800 pounds. Note that a vehicle with the appearance of a "golf cart" but satisfying the requirements of 49 CFR 571.500 (i.e., is a "low speed vehicle") is not subject to this chapter but rather to the Code of Iowa 321.381A.

2. "UTV" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to no more than 2,000 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.

74.03 OPERATION OF GOLF CARTS AND UTVS PERMITTED. Golf carts and UTVs may be operated upon the streets of the City by persons possessing a valid Iowa operator's license, and at least eighteen (18) years of age, except as prohibited in Section 74.09 of this chapter.

74.04 PROHIBITED STREETS. Golf carts and UTVs shall not be operated upon any City street that is a primary road extension through the City. However, golf carts and UTVs may cross such a primary road extension. Within the City of Cresco, "primary road extension" shall be taken to mean Highway 9 (2nd Avenue SE/SW), 3rd Street West (Granger Road), and 3rd Street SW (Protivin Road).

74.05 EQUIPMENT. Golf carts and UTVs operated upon City streets shall be equipped with at least the following:

1. A slow moving vehicle sign.

2. A bicycle safety flag, the top of which shall be a minimum of five (5) feet from ground level.

3. Adequate and functioning brakes.

4. Brake lights.

5. Rear view mirror.

6. Muffler and exhaust system adequate to meet City noise ordinances.

74.06 HOURS. Golf carts and UTVs may be operated on City streets only between sunrise and sunset, except that a UTV may be operated during prohibited hours to perform snow removal activities.

74.07 SPEED. Golf carts and UTVs shall be subject to posted speed limits, but in no case shall be operated at a speed in excess of twenty-five (25) miles per hour, or at a speed greater than that which is reasonable and proper for the existing conditions.

74.08 PASSENGERS. In addition to the operator, a golf cart or UTV operated on City streets or alleys may carry only one additional person (if there are no rear seats) or three additional persons (if the vehicle has rear seats), with no more than one person in a bucket seat or two people on a bench seat.

74.09 OPERATION.

1. Except as noted otherwise herein, any person operating a golf cart or UTV on City streets or alleys shall adhere to all traffic signs and signals, and all other traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic, or the direction of a fire department officer during a fire.

2. This chapter forbids the operation of golf carts and UTVs on City streets and alleys:

A. In a careless, reckless. or negligent manner.

B. While the operator is under the influence of any intoxicating or illegal substance.

C. While the golf cart or UTV is towing any item.

3. This chapter forbids the operation of golf carts and UTVs on:

A. Any recreational, bike or walking trail unless the trail is specifically designed to allow the use of motor vehicles.

B. Sidewalks.

C. City parks or any other land owned by the City.

D. Private property without the consent of the property owner.

4. Street Etiquette.

A. Except when executing a left turn, golf carts and UTVs shall be driven as close as practical to the right hand edge of any street.

B. When necessary to prevent congestion of traffic, golf carts and UTVs shall be pulled to the right hand edge of streets and be stopped to allow other motor vehicles traveling in the same direction to pass.

C. When two or more golf carts or UTVs are being operated in the same direction and general vicinity, they shall proceed in single file.

5. Helmets. Any passenger under the age of 16 in a golf cart or UTV being operated on a City street or alley shall wear a bicycle helmet at all times when the vehicle is in operation. It shall be the right of the operator of the golf cart or UTV to require all passengers, regardless of age, to wear protective head gear when the vehicle is in motion

6. Parking: A golf cart or UTV may be parked on City streets or parking lots only in a designated parking spot.

74.10 PERMITS. No person shall operate a golf cart or UTV on any public street or alley for any purpose unless the operator possesses a City of Cresco permit to operate a golf cart or UTV on City streets.

1. DNR Registration at the County Recorder's Office is required for UTVs and the sticker must be prominently displayed on the UTV.

2. Golf cart and UTV owners need to apply for a permit from the City of Cresco Police Department to operate a golf cart or UTV on City streets.

3. A permit shall not be issued until the owner has provided the following:

A. Evidence that the permitted operator(s) is at least 18 years of age and possesses a valid Iowa driver's license.

B. Proof that the owner and all permitted operators have liability insurance covering operation of a golf cart or UTV on city streets with limits of liability at least as great as those required by the Code of Iowa chapter 321A.1.11 as amended.

C. Evidence of inspection and approval by the Police Department of the City of Cresco.

4. Any golf cart or UTV operated on the City streets shall display the City of Cresco permit sticker prominently on a rear fender or similar component.

5. All permits issued shall uniquely identify the name(s) and address(es) of the owner and all permitted operators and shall be for a specific golf cart or UTV, as evidenced by its serial number.

6. The fee for such permits shall be twenty-five dollars ($25.00) per year. The fee will not be pro-rated for permits purchased during the year. The fee will not be refunded if the golf cart or UTV is sold, or the permit is suspended or revoked.

7. A permit will be valid between January 1 and December 31. Permits may be purchased at anytime during the year but will be valid only through December 31.

8. Additional operator(s) may be added during the year upon presentation of the required documentation but without an additional fee.

9. The permit may be suspended or revoked upon finding evidence that the owner or any permitted operator has violated the conditions of the permit or has abused the privilege of being a permit holder.

74.11 VIOLATION AND PENALTY. A violation of this chapter shall be considered a municipal infraction as defined at Chapter 4.01 of this Code of Ordinances and shall be punishable as provided in Chapter 4.03 of this Code of Ordinances.

1. For a first offense, the civil penalty shall be $100.00 and revocation of the City of Cresco permit for a period of 60 days.

2. For a second offense the civil penalty shall be $200.00 and revocation of the City of Cresco permit for a period of 730 days.

3. For a third or subsequent offense the civil penalty shall be $300.00 and permanent revocation of the City of Cresco permit.

4. To all of the above fines shall be added the criminal penalty surcharge and costs pursuant to the Iowa Code.

74.12 CITY CELEBRATION WAIVER. This chapter shall be waived for golf carts and UTVs used by officials, workers and volunteers in a City celebration.

(Ch. 74 – Ord. 448 – Dec. 13 Supp.)

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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 vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 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 that 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. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 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 that has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

(Ord. 449 – Dec. 13 Supp.)

75.03 GENERAL REGULATIONS. No person shall operate an ATV or off-road motorcycle 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)

(Ord. 449 – Dec. 13 Supp.)

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 may be operated upon streets that have not been plowed during the snow season and on any other streets in the City, except the following streets on which their operation is prohibited:

A. The entire length of Elm Street, Third Avenue and Eighth Avenue.

B. First Avenue from Second Street East to Sixth Street East.

C. Any street that is adjacent to a rest home or hospital.

D. Any street that is a Federal or State highway.
(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 that 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 public park, playground, recreational area 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.

7. Private Property. Snowmobiles shall not be operated on any private property unless permission has been granted by the owner or occupant of said private property.

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 operation of registered ATVs. In designating such streets, the Council may authorize ATVs to stop at service stations or convenience stores along a designated street.

(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."

(Ord. 449 – Dec. 13 Supp.)

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 five hundred dollars ($1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 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 Speed
76.06 Emerging from Alley or Driveway
76.07 Carrying Articles
76.08 Riding on Sidewalks
76.09 Towing
76.10 Improper Riding
76.11 Parking
76.12 Equipment Requirements
76.13 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 that 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 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 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])

76.06 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])

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

(Code of Iowa, Sec. 321.236[10])

76.08 RIDING ON SIDEWALKS. The following shall apply to riding bicycles, skateboards, inline skates, scooters, or any other wheeled vehicles propelled by human power on sidewalks:

1. Business District. No person shall ride a bicycle, skateboard, inline skates, scooter or any other wheeled vehicle propelled by human power 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 the sidewalk is otherwise marked, prohibiting the riding of bicycles, skateboards, inline skates, scooters or any other wheeled vehicles propelled by human power 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, skateboard, inline skates, scooter or any other wheeled vehicle propelled by human power 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])

76.09 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.

76.10 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.

76.11 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])

76.12 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 emitting 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 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from fifty (50) feet to 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 that will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Code of Iowa, Sec. 321.236[10])

76.13 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 this 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

BIKE AND RECREATION TRAILS

77.01 Purpose
77.02 Definitions
77.03 Permitted Uses; Motorized Vehicles Prohibited
77.04 Horses; Livestock; Dogs
77.05 Police Authority
77.06 Traffic Code and Chapter 76

77.01 PURPOSE. The purpose of this chapter is to regulate the use of bike and recreation trails in and around the City for the protection of the public convenience, health, safety, and welfare.

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

1. "Bicycle" means any non-motorized wheeled vehicle propelled by foot power.

2. "Bike and recreation trail" means an area set aside for bike riding, recreational walking, inline skating, roller skating and similar activities, and commonly known as the "Prairie Springs Recreational Trail."

3. "Bikeway" means a section of the roadway that has been set aside for use by bicycles.

77.03 PERMITTED USES; MOTORIZED VEHICLES PROHIBITED. The use of any bike and recreational trails is limited to persons walking, running, biking, inline skating, roller skating, skateboarding, or similar activities. No motorized vehicles, except authorized emergency or maintenance vehicles, are allowed on the bike and recreational trails. Prohibited motorized vehicles include snowmobiles, motorcycles, motorbikes, scooters, three-wheelers, automobiles and any other motorized vehicles. Motorized wheelchairs used exclusively for the transportation of persons with disabilities are permitted on the bike and recreational trails.

77.04 HORSES; LIVESTOCK; DOGS. No horses or other livestock are permitted on the Prairie Springs Recreational Trail. Dogs are permitted on the trails and must at all times be restrained with a leash. Owners or possessors of dogs are required to clean up any feces left by their dogs.

77.05 POLICE AUTHORITY. The Cresco Police Department is authorized to enforce all City regulations on the Prairie Springs Recreational Trail, including any portion of the trail owned by the City, whether or not such portion is located within the corporate limits of the City.

77.06 TRAFFIC CODE AND CHAPTER 76. All traffic regulations contained in this Code of Ordinances apply to the Prairie Springs Recreational Trail. Chapter 76 of this Code of Ordinances, regulating bicycles, applies to the Prairie Springs Recreational Trail.

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CHAPTER 78

REGULATION OF SCOOTERS AND PERSONAL MOBILITY DEVICES

78.01 Purpose
78.02 Definitions
78.03 Regulations
78.04 Safety Equipment
78.05 Traffic Code Applies
78.06 Violations

78.01 PURPOSE. The purpose of this chapter is to regulate the use of scooters and personal mobility devices on the public ways of the City for the protection of the public convenience, health, safety, and welfare.

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

1. "Electric scooter" means any three- or four-wheeled vehicle propelled by electric or battery power.

2. "Personal mobility device" means any three- or four-wheeled vehicle propelled by electric or battery power and designed primarily to assist in the mobility of persons with disabilities.

78.03 REGULATIONS. Electric scooters or personal mobility devices may only be operated on roadways in the City by persons who qualify for a persons with disabilities parking permit under Section 321L.2 of the *Code of Iowa*. All electric scooters or personal mobility devices operated in the City shall be registered on an annual basis with the City. Registration shall be made with the Police Department. The Police Department shall issue a reflective permit for the scooter or personal mobility device, which permit must be displayed at all times on the scooter or personal mobility device.

78.04 SAFETY EQUIPMENT. Electric scooters or personal mobility devices lawfully operated on the roadways in the City shall be equipped with a safety flag that extends not less than five feet above the ground. The flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo or fluorescent orange in color. If the electric scooter or personal mobility device is operated on any roadway between sunset and sunrise, it shall be equipped with an amber flashing light that extends at least five feet from the ground and is visible from distance of at least 300 feet.

78.05 TRAFFIC CODE APPLIES. Every person operating an electric scooter or personal mobility device upon a roadway shall obey all traffic laws of the State of Iowa or this Code of Ordinances.

78.06 VIOLATIONS. Any violation of this chapter shall be considered a simple misdemeanor and shall be punishable by a fine of $25.00 plus any applicable surcharges and court costs. In addition, the City may refuse to register any scooter or personal mobility device due to violations of this chapter.

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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] & Sec. 321.90)

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 that is a garage keeper 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 all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

(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

90.01 Definitions
90.02 Superintendent's Duties
90.03 Mandatory Connections
90.04 Abandoned Connections
90.05 Permit
90.06 Tapping and Connection Charges
90.07 Compliance with Plumbing Code
90.08 Plumber Required
90.09 Excavations
90.10 Tapping Mains
90.11 Installation of Water Service Pipe
90.12 Responsibility for Water Service Pipe
90.13 Failure to Maintain
90.14 Curb Valve
90.15 Interior Valve
90.16 Inspection and Approval
90.17 Completion by the City
90.18 Shutting Off Water Supply
90.19 Operation of Curb Valve
90.20 Fire Hydrants
90.21 Control of Water Supply
90.22 Regulation of Private Wells

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. "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.

2. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

3. "Water main" means a water supply pipe provided for public or community use.

4. "Water service pipe" means the pipe from the water main to the building served.

5. "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 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 one year after it is issued. The permit may be revoked at any time for any violation of these chapters.

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

90.06 TAPPING AND CONNECTION CHARGES.

1. Tapping Charge. There shall be a tapping charge in the amount of $100.00 for each service connection plus the cost of the saddle needed to make the connection.

2. Hookup Charge. There shall be a hookup charge in the amount of $150.00 for each service connection.

3. Connection Charge. In addition to any other fees or charges established in this chapter, there shall be a connection charge of not less than $5,000.00 for properties located outside of the City limits to reimburse the City for making and supervising connection of properties to the water service facilities. The City Council shall have the discretion to waive the connection charge in the event that the property to be connected is located in an area that is voluntarily annexed to the City.

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 *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances. In addition, any service lines that must cross a finished street, alleyway or other public thoroughfare shall be bored under such street, alley, or other public thoroughfare to avoid damage to such street, alley, or public thoroughfare. All boring costs shall be borne by the property owner or customer.

90.10 TAPPING MAINS. All taps into water mains shall be made by the Water Department unless permission is given by the Superintendent for the property owner to make the tap under the direct supervision of the Superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the 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 four (4) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains six (6) inches and larger in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near a 45-degree

angle 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. Private Water Lines. The connection or reconnection of any private water line which requires a "T" to be installed in the City water main shall be made by the property owner at the owner's expense.

5. 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.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the curb valve must be standard weight Type K copper. Water service pipes from the curb valve to the meter setting must be standard weight Type K copper or 200 psi plastic. If plastic is used, a tracing wire must be laid with the line in the ditch. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settling 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 that is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed, within the public right-of-way, a main shut-off valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent. The curb valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground. The curb valve must be maintained in working order by the property owner. Failure to maintain the curb valve may result in the City repairing the curb valve and assessing 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 may be inspected and approved by the Superintendent before they are covered. 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 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. 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 which 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. It is unlawful for any person except the Superintendent or a plumber to turn water on at the curb valve, and said plumber shall take no action contrary to the orders of the Superintendent and shall leave the water off or on, as directed by the Superintendent.

90.20 FIRE HYDRANTS. Fire hydrants located in the City are for the purpose of fire protection and must comply with City policy and be approved by the Superintendent. No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.21 CONTROL OF WATER SUPPLY. Whenever in the judgment of the Council it becomes necessary to conserve the water supply in the public interest, a resolution may be adopted to:

1. Regulate during certain hours or on certain days of the week the water that may be used for car and vehicle washing, watering lawns, gardens, or other similar uses or prohibit the use of water for any such purposes for such time as the Council may determine;

2. Regulate the amount of water that any customer may use on any particular day or for any period of time and specify the purposes for which water may be used by any customer; or

3. Make additional rate charges for special uses by resolution or contract.

90.22 REGULATION OF PRIVATE WELLS. No private wells may be constructed or drilled within the City limits without a permit. Permit applications shall be obtained from and presented to the Public Works Director. The Public Works Director shall present all applications to the Council for consideration and grant or denial. The Public Works Director shall make recommendations to the Council regarding the grant or denial of any application, but the final decision shall rest with the Council. In considering the grant or denial of any application for construction or drilling of a well within City limits, the Council shall consider whether the property is furnished with pure and wholesome water, whether it is safe to construct or drill a well on the premises, and any other considerations which the Council deems appropriate.

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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 Costs
91.07 Protection of Meter From Freezing
91.08 Meter Repairs
91.09 Right of Entry
91.10 Testing Meters
91.11 Yard Meters

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.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a globe type valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 PROTECTION OF METER FROM FREEZING. When any customer allows the water meter to freeze by the customer's failure to protect the meter from frost, the customer will be charged for repairing the meter. Failure to pay for such repairs will entitle the City to shut off the water supply.

91.08 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.

91.09 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.

91.10 TESTING METERS. The City shall have access to all water meters at any reasonable time for the purpose of inspecting or testing such meters. The City shall test the meter of any customer upon written request submitted to the Mayor or Clerk. The customer applying for such test shall pay to the City the cost of the testing.

91.11 YARD METERS. A yard meter may be installed to measure water, for outdoor use only, that is not disposed of through the public sanitary sewer system. Permitted uses for water measured by a yard meter include watering lawns and gardens, filling swimming pools, washing cars, etc. Uses not allowed include connection to any outdoor shower, water heater, geothermal appliance or any auxiliary building. The following regulations apply to yard meters:

1. The customer must purchase the yard meter from the City.

2. The meter piping shall be installed by a licensed plumber. The meter must be "T'ed" off the service line before the standard meter, must have a valve on each side of the yard meter and must have an outside reader. Only one outdoor faucet shall be allowed to be connected to the yard meter. The installation and removal of a yard meter shall be done by the City.

3. Yard meters will be read by the City at the same time regular water meters are read. No sewer charge will be assessed to water usage through the yard meter.

4. No water from a yard meter may be allowed to enter the sanitary sewer system. A violation of this subsection shall result in full sewer charges being added to the water bill, removal of the yard meter permanently, and shall be considered a violation of this Code of Ordinances.

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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 Service After Hours
92.07 Lien for Nonpayment
92.08 Lien Exemption
92.09 Lien Notice
92.10 Customer Deposits
92.11 Temporary Vacancy
92.12 Customer-Requested Termination of Service

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. No deduction from the water service charge will be made on account of leakage after the water has passed through a meter.

(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)

1. Effective July 1, 2019:

   A. First 7,000 gallons used per month @ $5.03 per 1000 gallons. (Minimum bill is $7.55 based on 1,500 gallons.)

   B. Next 60,000 gallons used per month @ $4.59 per 1000 gallons.

   C. All over 67,000 gallons used per month @ $4.20 per 1000 gallons.

(Ord. 475 – Jul. 19 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided at the following monthly rates, based upon water used and furnished, outside the City limits and such rates shall apply to all cases except where there was in existence a pre-existing written contract:

(Code of Iowa, Sec. 384.84)

1. Effective July 1, 2019:

   A. First 7,000 gallons used per month @ $10.06 per 1000 gallons. (Minimum bill is $15.09 based on 1,500 gallons.)

   B. Next 60,000 gallons used per month @ $9.18 per 1000 gallons.

   C. All over 67,000 gallons used per month @ $8.40 per 1000 gallons.

(Ord. 475 – Jul. 19 Supp.)

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. Meters Read. Water meters shall be read on approximately the 20th of each month.

2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or about the first day of each month.

3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 12th day of each month.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

92.05 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. In the event that the City tags doors of delinquent customers prior to discontinuance of service, as final notice of shutoff, a $50.00 service fee shall be charged.

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. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If the customer requests a hearing before the date of the shut off, the Council shall conduct an informal hearing at the next scheduled Council meeting and the Council shall make a determination as to whether the disconnection is justified. If the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Service Discontinued. The Superintendent shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to make payment by the date specified in the delinquent notice.

5. Fees. A fee of $25.00 shall be charged for shutting the water off and a fee of $25.00 shall be charged before service is restored to a delinquent customer. No service fees shall be charged for the usual or customary trips in the regular changes in occupancies of property.

6. Replenishment of Deposit. Delinquent customers shall also pay a deposit equal to the customer's past due bill prior to restoration of service to replenish the customer's deposit.

92.06 SERVICE AFTER HOURS. All water services will be conducted during normal business hours, Monday through Friday. Requests after normal business hours for services, including (but not limited to) repairs, water on requests, or water off requests shall be billed a minimum fee of $100.00.

92.07 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.08 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial 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 or commercial 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 such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is 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 for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. A change in the ownership of the commercial 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.

92.09 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)

92.10 CUSTOMER DEPOSITS. There shall be required a deposit of $80 from every residential, $100 from every commercial, and $200 from every industrial customer. The deposit is intended to guarantee the payment of bills for service. This deposit will be applied to the customer's account or refunded after three years with good credit history. The deposit will be applied to final water billing if services are discontinued. ***(Ord. 475 – Jul. 19 Supp.)***

(Code of Iowa, Sec. 384.84)

92.11 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a $10.00 fee collected for shutting the water off at the curb valve and a $10.00 fee for restoring service. During a period when service is temporarily discontinued as provided herein, there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies unless the water cannot be shut off at the curb valve.

92.12 CUSTOMER-REQUESTED TERMINATION OF SERVICE. A customer may request water service to be terminated by informing City Hall. No water service shall be considered terminated until the water department has terminated service at the curb valve and removed the water meter. All water meters shall be removed and installed by the water department only. There shall be a $10.00 fee collected for shutting the water off at the curb valve and a $10.00 fee for restoring service. If the renter is not delinquent but the property owner wants the water turned off, the City cannot turn off the water.

CHAPTER 93

BENEFITED WATER SERVICE AREA NO. 1

93.01 Definitions
93.02 Benefited Service Area
93.03 Connection Fee
93.04 Connection Permit
93.05 Violation

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

1. "Benefited Service Area" means a designated area to which water service will be available by a water main of a given design and capacity.

2. "Connection" means any act that results in a direct or indirect connection to a City water utility, including but not limited to, the connection of a private water system to a lateral main or the connection of a lateral water line serving a subdivision to a water main.

3. "Lot" means a parcel of land under one ownership. Two or more contiguous parcels under common ownership may be treated as one lot for the purposes of this chapter if the parcels bear common improvements or if the Council finds that the parcels have been assembled into a single unit for the purpose of use or development.

4. "Original Cost" means all costs incurred in the design, construction and financing of City water utilities, including but not limited to, the cost of labor, materials, engineering, fees, legal fees, closing costs, and the reasonable loss of return on City cash reserves used to finance construction or the interest on any indebtedness incurred to finance construction.

5. "Water Utility" means and includes water mains or trunk lines.

6. "Service Area No. 1" means an area within City limits of Cresco, Iowa, described as follows:

Lot 1, Cresco Industrial Park Addition to City of Cresco, Howard County, Iowa

93.02 BENEFITED SERVICE AREA. The lots within Service Area No. 1 constitute a Benefited Service Area to be served by connection to the City water utility. The original cost to the City of extending the City water utility to the properties in Service Area No. 1 is $26,926. The Benefited Service Area defined as Service Area No. 1 contains approximately 491 square feet.

93.03 CONNECTION FEE. There is imposed on all lots within Service Area No. 1 for which a water connection fee has not previously been paid, a fee for connection to the City water utility. The connection fee shall be equal to that percentage of the original cost of bringing the City water utility to each respective service area that equals the percentage of area that the connected lots constitutes in relation to the entire Service Area. In Service Area No. 1 the connection fee shall be $54.80 per square foot. Connection fees collected by the City Treasurer shall be used only for the purpose of operating or paying debt of the City water utility. The water connection fees established by this chapter are in addition to, and not in lieu

of, any fees for connection required under the plumbing code, other provisions of the municipal code, or City policy.

93.04 CONNECTION PERMIT. Before any connection is made to a City water utility to serve a lot in Service Area No. 1, the owner of the lot or lots to be served by the connection shall file an application on a form provided by the City, with the Public Works Director. Upon approval of the application, the Public Works Director shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City Treasurer, or upon entry into an agreement to pay said fee in installments if so allowed under separate resolution of the City Council, the City shall connect the service.

93.05 VIOLATION. In the event a connection is made to a City water utility serving Service Area No. 1 without 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 resolution of the Council is not made, the City shall disconnect such service from the City water utility until such time as the property owner has received a permit for the connection and paid the required connection fee.

(Ch. 93 – Ord. 456 – July 15 Supp.)

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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 degrees (20º) 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 that 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 that carries sewage and to which storm, surface, and ground waters 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 that 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 that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that 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 that 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 that 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 ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within two hundred fifty (250) 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.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abandoned Connections
96.11 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 a connection charge in the amount of two hundred fifty dollars ($250.00) for each connection to the public sewer or any lateral thereof.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

A. Recommended grade at one-fourth (1/4) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.

C. Ductile iron water pipe – A.W.W.A. C-151.

D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings.

Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed by the City, at a cost to the plumber or owner of one hundred fifty dollars ($150.00) per tap. Upon completion of the tap, the plumber shall then connect the building sewer to the saddle. If the connection involves replacement of an existing building sewer and a new tap is not required, the City will provide the plumber with a saddle. The plumber or owner shall then pay the City for the full cost of such saddle as well as a $20.00 inspection fee. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the

Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABANDONED CONNECTIONS. When a building sewer or service is abandoned, the service line shall be plugged watertight as closely as possible to the sewer main. The location of the end of the abandoned service line shall be measured from at least three (3) permanent physical features in the immediate vicinity and said measurements shall be given to the Superintendent.

96.11 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])

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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 that 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.

A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. 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: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) 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 degrees (150º) F (65º C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32º F and 150º F (0º to 65º 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 that 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 that 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 that, 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 that 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 that 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 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 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 Rates for Service
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 RATES FOR SERVICE. Each customer shall pay a sewer service charge for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed. Sewer service shall be furnished at the following monthly rates:

(Code of Iowa, Sec. 384.84)

1. Effective July 1, 2019:

   A. $8.58 per 1,000 gallons within City limits. (Minimum bill is $12.87 based on 1,500 gallons.)

   B. $17.16 per 1,000 gallons outside City limits. (Minimum bill is $25.74 based on 1,500 gallons.)

   C. $3.50 per month for capital improvement fund for the extension and maintenance of the sewer, storm sewer and water lines.

(Ord. 476 – Jul. 19 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 92.09 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.08 of this Code of Ordinances, 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.

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CHAPTER 100

BENEFITED SANITARY SEWER SERVICE AREAS

100.01 Definitions
100.02 Benefited Service Area No. 1
100.03 Benefited Service Area No. 2
100.04 Benefited Service Area No. 3

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

1. "Benefited service area" means a designated area to which sanitary sewer service will be provided by a sanitary sewer utility of a given design and capacity.

2. "Connection" means any act that results in a direct or indirect discharge into a City sewer utility, including but not limited to, the connection of a private sewer system to a lateral sewer or manhole or the connection of a lateral sewer serving a subdivision to a trunk sewer or manhole.

3. "Lot" means a parcel of land under one ownership. Two or more contiguous parcels under common ownership may be treated as one lot for the purposes of this chapter if the parcels bear common improvements or if the Council finds that the parcels have been assembled into a single unit for the purpose of use or development.

4. "Original cost" means all costs incurred in the design, construction and financing of City sewer utilities, including but not limited to, the cost of labor, materials, engineering fees, legal fees, closing costs, and the reasonable loss of return on City cash reserves used to finance construction or the interest on any indebtedness incurred to finance construction.

5. "Sanitary sewer utility" means and includes sanitary sewer trunk lines and sanitary sewer interceptors, sanitary sewer force mains, pumping stations and detention basins.

100.02 BENEFITED SERVICE AREA NO. 1. The provisions of this section apply to Service Area No. 1, an area within the City limits of Cresco, Iowa, described as follows:

Block twenty-three (23) of the Original Plat of the City of Cresco, Howard County, Iowa.

The lots within Service Area No. 1 constitute a Benefited Service Area to be served by connecting to the City sewer utility. The original cost to the City of extending the City sewer utility to the properties in Service Area No. 1 is $25,271.04. The Benefited Service Area No. 1 contains approximately 800 linear feet.

1. Connection Fee. There is imposed on all lots within Service Area No. 1 for which a sewer connection fee has not previously been paid, a fee for connection to the City sewer utility. The connection fee shall be equal to that percentage of area that the connected lot constitutes in relation to the entire service area. In Service Area No. 1 the connection fee shall be $15.75 per linear foot. Connection fees collected by the City shall be used only for the purpose of operating or paying debt of the City sewer utility. The sewer connection fee established by this section is in addition to, and not in lieu of, any other fees for connection required under the plumbing chapters, other provisions of this Code of Ordinances, or City policy.

2. Connection Permit. Before any connection is made to a City sewer utility to serve a lot in Service Area No. 1, the owner of the lot or lots to be served by the connection shall file an application with the Public Works Director, on a form provided by the City. Upon approval of the application, the Public Works Director shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City, or upon entry into an agreement to pay said fee in installments if so allowed under separate resolution of the City Council, the City shall issue a connection permit. Upon completion of the connection, the owner of the lot or lots being connected shall notify the Public Works Director and the Public Works Director shall inspect the connection.

3. Separate Service. If the owner of two contiguous parcels affected by this section desires to make a connection to the City sewer utility which will serve only one such parcel, and the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the owner may make application to the City Council to connect each such parcel separately. If the Council finds that the parcels do not bear common improvements and have not been assembled into a single unit for the purpose of use or development, the original connection fee shall be calculated and paid only upon the parcel or parcels that will be served by the connection. A new application must be filed, and a connection fee paid, when the parcel or parcels not served by the original connection to the City sewer utility are connected.

4. Violation. In the event a connection is made to a City sewer utility serving Service Area No. 1 without the permit required by this section, or without payment of the connection fee set forth in this section, or if any installment payment of such fee as provided by subsequent resolution of the Council is not made, the City shall disconnect such service from the City sewer utility until such time as the property owner has received a permit for the connection and paid the required connection fee.

100.03 BENEFITED SERVICE AREA NO. 2. The provisions of this section apply to Service Area No. 2, an area within the City limits of Cresco, Iowa, described as follows:

Lots 3, 4, 5, 6, 7 of the Sunrise Addition, 126.25 feet of the East Section of Lot 16 and all of Lot 17 of the irregular survey of the N½ SW¼ Section 26-99-11.

The lots within Service Area No. 2 constitute a Benefited Service Area to be served by connecting to the City sewer utility. The original cost to the City of extending the City sewer utility to the properties in Service Area No. 2 is $14,853.00. The Benefited Service Area No. 2 contains approximately 850 linear feet.

1. Connection Fee. There is imposed on all lots within Service Area No. 2 for which a sewer connection fee has not previously been paid, a fee for connection to the City sewer utility. The connection fee shall be equal to that percentage of the original cost of bringing the City sewer utility to each respective service area that equals the percentage of area that the connected lot constitutes in relation to the entire service area. In Service Area No. 2 the connection fee shall be $8.74 per linear foot. Connection fees collected by the City shall be used only for the purpose of operating or paying debt of the City sewer utility. The sewer connection fee established by this section is in addition to, and not in lieu of, any other fees for connection required under the plumbing chapters, other provisions of this Code of Ordinances, or City policy.

2. Connection Permit. Before any connection is made to a City sewer utility to serve a lot in Service Area No. 2, the owner of the lot or lots to be served by the connection shall file an application with the Public Works Director, on a form provided by the City. Upon approval of the application, the Public Works Director shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City, or upon entry into an agreement to pay said fee in installments if so allowed under separate resolution of the City Council, the City shall connect the service.

3. Violation. In the event a connection is made to a City sewer utility serving Service Area No. 2 without the permit required by this section, or without payment of the connection fee set forth in this section, or if any installment payment of such fee as provided by subsequent resolution of the Council is not made, the City shall disconnect such service from the City sewer utility until such time as the property owner has received a permit for the connection and paid the required connection fee.

100.04 BENEFITED SERVICE AREA NO. 3. The provisions of this section apply to Service Area No. 3, an area within the City limits of Cresco, Iowa, described as follows:

Lots 2, 3 and 4, Cresco Business Park Addition to the City of Cresco, Howard County, Iowa, and Lot 2, Cresco Industrial Park Addition to the City of Cresco, Howard County, Iowa.

The lots within Service Area No. 3 constitute a Benefited Service Area to be served by connecting to the City sewer utility. The original cost to the City of extending the City sewer utility to the properties in Service Area No. 3 is $12,012.59. The Benefited Service Area No. 3 contains approximately 400 linear feet.

1. Connection Fee. There is imposed on all lots within Service Area No. 3 for which a sewer connection fee has not previously been paid, a fee for connection to the City sewer utility. The connection fee shall be equal to that percentage of the original cost of bringing the City sewer utility to each respective service area that equals the percentage of area that the connected lot constitutes in relation to the entire service area. In Service Area No. 3 the connection fee shall be $15.01 per linear foot. Connection fees collected by the City shall be used only for the purpose of operating or paying debt of the City sewer utility. The sewer connection fee established by this section is in addition to, and not in lieu of, any other fees for connection required under the plumbing chapters, other provisions of this Code of Ordinances, or City policy.

2. Connection Permit. Before any connection is made to a City sewer utility to serve a lot in Service Area No. 3, the owner of the lot or lots to be served by the connection shall file an application with the Public Works Director, on a form provided by the City. Upon approval of the application, the Public Works Director shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee to the City, or upon entry into an agreement to pay said fee in installments if so allowed under separate resolution of the City Council, the City shall connect the service.

Violation. In the event a connection is made to a City sewer utility serving Service Area No. 3 without the permit required by this section, or without payment of the connection fee set forth in this section, or if any installment payment of such fee as provided by subsequent resolution of the Council is not made, the City shall disconnect such service from the City sewer utility

until such time as the property owner has received a permit for the connection and paid the required connection fee.

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CHAPTER 101

PROHIBITION ON DISCHARGE OF STORM WATER AND GROUNDWATER INTO CITY SANITARY SEWER SYSTEM

101.01 Purpose
101.02 Restrictions and Definitions
101.03 Method of Installation
101.04 Disconnections Ordered
101.05 Inspections
101.06 Time Limit to Allow Inspection
101.07 Time Limit for Disconnection
101.08 Sanitary Sewer Surcharge
101.09 Penalties and Enforcement

101.01 PURPOSE. The discharge of water from any roof, surface, ground, sump pump, footing tile or swimming pool or other natural precipitation into the City sanitary sewer collection system has the potential to cause damage to property and overload the City wastewater collection, conveyance and treatment system. Such discharge may result in the backup of sewage into living quarters of residential homes or other buildings, creating a potential health hazard and potentially exceeding the capacity of the City wastewater collection, conveyance and treatment system. Therefore, the City finds that it is essential to the maintenance of public health, minimization of damage to property and to maintain the functioning and capacity of the City wastewater collection, conveyance and treatment system, that the provisions of this section be strictly enforced:

101.02 RESTRICTIONS AND DEFINITIONS. No water from any roof, surface, ground, sump pump, footing tile, swimming pool or other natural precipitation shall be discharged into the sanitary sewer collection system. Dwellings, including new housing construction or houses under construction, and other buildings and structures which require, because of the infiltration of water into basements, crawl spaces and the like, a seepage collection system, or "beaver drain" or sump pump system to discharge water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer collection system. A permanent installation shall be one which provides for a year-round discharge connection to the City subdrain/storm sewer system. If there is no subdrain available, the surface discharge point shall be located no closer than four feet from the curb or as approved by the City. Such discharge line shall consist of a rigid discharge line inside the structure, without valving or quick connections for altering the path of discharge and, if connected to the City subdrain/storm sewer system, shall include a check valve.

101.03 SUMP, PUMP, AND RIGID PIPE: METHOD OF INSTALLATION.

1. A discharge pipe shall be installed through the outside foundation wall of the building with rigid pipe (plastic, copper or galvanized) one and one-half (1½") inch inside diameter minimum, without valves or quick connections that would alter the path of discharge. The discharge shall be directed away from the foundation wall.

2. No discharge shall be directed so as to impact neighboring properties or any sidewalks, streets or right-of-way unless approved by the City.

3. Where a sump pit exists in any building, it shall have a pump installed with rigid piping as specified above.

4. Any plumber or contractor who knowingly installs a sump, pump and/or piping that is not in conformance with this ordinance shall be liable to the City for all damages that arise and be subject to the penalties set forth in Section 101.09.

101.04 DISCONNECTIONS ORDERED. Any owner of any dwelling, building or other structure having a roof, surface, ground, sump pump, footing tile or swimming pool now connected and/or discharging into the City sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the City sanitary sewer system shall be closed or repaired in a manner as approved by the Public Works Director or his or her representative.

101.05 INSPECTIONS. Every owner of any dwelling, building or other structure subject to this section, shall allow an employee of the City, or their designated representative, to gain admittance to the owner's property in order to inspect such dwelling, building or other structure, to confirm that there is no sump pump or other prohibited discharge from said property into the City sanitary sewer system. This requirement may also be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property and the sump pump system, and shall complete, sign and return an inspection form, provided by the City, documenting the results of the inspection. All costs associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

101.06 TIME LIMIT TO ALLOW INSPECTION. The owner of any dwelling, building or other structure shall have a period of thirty (30) days from the date the City, or their designated representative, sends a written notice to the owner requesting admittance to the property for an inspection, to either allow a City inspection of the property, or to contract with a licensed plumber to perform the inspection, and notify the City of the results thereof as provided in section 101.05 of this chapter.

101.07 TIME LIMIT FOR DISCONNECTION OF DISCHARGE. Upon completion of a City inspection of a property, or upon the City's receipt of an inspection form from the licensed plumber hired by the owner of the property, the City shall determine whether any such property is improperly discharging storm water into the City sanitary sewer system, and shall send a notice to the property owner regarding the results of said inspection if there is a violation. If the property is found to be discharging storm water into the City sanitary sewer system, then the owner shall have a period of ninety (90) days from the date the City sends such written notice to the owner to disconnect the owner's sump pump or other prohibited discharge into the City sanitary sewer system, and to request an inspection, certifying that all work necessary to disconnect the owner's sump pump or other prohibited discharge from said property into the City sanitary sewer system has been completed.

101.08 SANITARY SEWER SURCHARGE. Any owner who fails to timely comply with the requirements of either section 101.06 or of section 101.07 of this chapter shall thereupon be subject to and shall pay a monthly surcharge on the property owner's or tenant's City sewer bill in the amount of $100.00 per month. Said surcharge shall commence on the first day of the month following the expiration of the thirty (30) day period set forth in section 101.06 of this chapter, or the ninety (90) day period set forth in section 101.07 of this chapter, as applicable, when either the property owner has failed to timely allow a City inspection or has failed to timely correct any illegal connections to the City sanitary sewer system, or has failed to contract with a licensed plumber to inspect the property and correct any illegal connections to the City sanitary sewer system. Such surcharge shall continue to be imposed on the

owner's City sanitary sewer bill for as long as the property owner continues to own the property without complying with the requirements of this division. This monthly surcharge is intended to offset the added cost to the City associated with having the City wastewater collection, conveyance and treatment system process clear or clean water unnecessarily, when the status of the property owner's connection or non-connection to the City sanitary sewer system cannot be ascertained, or when the owner has failed to timely disconnect any discharge of storm water to the City sanitary sewer system.

101.09 PENALTIES AND ENFORCEMENT. Whoever shall violate any provision of this chapter for which no specific penalty is provided may be punished as set forth below.

1. Any person found to be violating any provision of this chapter, shall be served by the City with written notice stating the nature of the violation and providing at least ninety (90) days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. A surcharge fee shall be added to the property's City sewer bill, as provided in section 101.08 of this code.

2. Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this section shall be guilty of a municipal infraction. Each day in which any such violation occurs shall be deemed a separate offense.

3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. The City will also retain any and all civil remedies including but not limited to injunction or abatement actions to remedy a violation.

(Ch. 101 – Ord. 460 – Jun. 16 Supp.)

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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
105.12 Sanitary Disposal Project Designated
105.13 Yard Waste Disposal Site
105.14 Recycling Program

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 that 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.

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) that 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, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. No landscape waste shall be burned within the City of Cresco, except in an officially declared emergency condition as described in subsection 1 above.

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources and the following regulations.

A. Recreational fires shall be confined to a fire pit or fire ring.

B. Recreational fires shall not exceed 3 feet in width and fueled 12 inches in height.

C. Recreational fires shall be located at least 25 feet from any neighbor's structure or dwelling.

(Ord. 447 – Dec. 13 Supp.)

D. Recreational fires shall be constantly attended and monitored by a person who shall take responsibility for the fire and shall have a garden hose connected to a water supply or other approved fire extinguishing equipment readily available.

E. Recreational fires shall be completely extinguished by 1:00 a.m.

F. Police officers or the Fire Chief shall be authorized to order any recreational fires to be extinguished if smoke emissions cause serious annoyance or disturbance or a disturbance of the peace.

G. Only logs, sticks or twigs, and dry seasoned wood shall be burned in recreational fires. No landscape waste, garbage, refuse, paper products, treated lumber or other items shall be burned.

6. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

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 on the premises, deposited at the City's yard waste disposal site, or placed in biodegradable paper bags and set out for collection not more than twelve (12) hours in advance of the regularly scheduled collection day. Tree limbs shall be cut into pieces not exceeding ten (10) feet in length. No other solid waste shall be commingled with leaves. It is illegal to accumulate landscape waste on any public street or alley or right-of-way. It is the responsibility of the abutting property owner to dispose of such waste properly. No leaves or grass clippings shall be placed on or raked onto City streets or alleys. The City crews collect yard waste from mid-April to mid-November; a schedule may be obtained at City Hall. 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 or in a flood plain. 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 that requires special handling and that 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 are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a tight lid. 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 and provided by the collector.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

3. Nonconforming Containers. Solid waste placed in containers that 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 that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

5. Landscape Waste. Burn landscape waste within the City, except in an officially declared emergency condition.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Winneshiek County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

105.13 YARD WASTE DISPOSAL SITE. A yard waste disposal site has been established by the City for use by residents of the community. The Council shall adopt by resolution the rules and regulations for the disposal site. Such rules will include the operating hours of the site, the type and size of degradable bags, the size of tree limbs and the type and size of organic debris to be deposited at the site. The Council shall also adopt by resolution the fees to be charged to the residents and nonresidents of the City for depositing yard waste at the disposal site.

105.14 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material in accordance with the provisions of the contract between the City and the collector. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the collector. Recyclables shall be collected once every two weeks.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, 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 that 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 collector.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. 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 fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fees. The fees for solid waste collection and disposal service, to any property where water service is turned on, are:

Effective January 1, 2018	
Solid Waste (Residential)	$17.11 per month per dwelling unit*
Recycling (Residential)	$4.74 per month per dwelling unit
Solid Waste (Light Commercial)	$21.27 per month
* Where at least one resident residing in a dwelling unit is 65 years of age or older, the fee is $16.49 per month.	

Effective January 1, 2019	
Solid Waste (Residential)	$17.45 per month per dwelling unit*
Recycling (Residential)	$4.84 per month per dwelling unit
Solid Waste (Light Commercial)	$21.70 per month
* Where at least one resident residing in a dwelling unit is 65 years of age or older, the fee is $16.82 per month.	

Effective January 1, 2020	
Solid Waste (Residential)	$17.80 per month per dwelling unit*
Recycling (Residential)	$4.94 per month per dwelling unit
Solid Waste (Light Commercial)	$22.13 per month
* Where at least one resident residing in a dwelling unit is 65 years of age or older, the fee is $17.16 per month.	

Effective January 1, 2021	
Solid Waste (Residential)	$18.16 per month per dwelling unit*
Recycling (Residential)	$5.04 per month per dwelling unit
Solid Waste (Light Commercial)	$22.57 per month
* Where at least one resident residing in a dwelling unit is 65 years of age or older, the fee is $17.50 per month.	

Effective January 1, 2022	
Solid Waste (Residential)	$18.52 per month per dwelling unit*
Recycling (Residential)	$5.14 per month per dwelling unit
Solid Waste (Light Commercial)	$23.02 per month
* Where at least one resident residing in a dwelling unit is 65 years of age or older, the fee is $17.85 per month.	

(Subsection 1 - Ord. 469 – Dec. 17 Supp.)

2. Yard Waste. The fee for collection of yard waste is $1.75 per month for each residential and commercial premises.

3. Commercial, Industrial and Institutional Premises. The fee for the collection of solid waste and recyclables for each commercial, industrial, and institutional premises shall be negotiated between the collector and the customer and billed by the City.

4. 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 92.09 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.08 of this Code of Ordinances, 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 Term; Periodic Review
110.03 Governing Rules and Regulations
110.04 Franchise Fees
110.05 Construction and Maintenance of Company Facilities
110.06 Extension of Company Facilities
110.07 Relocation of Company Facilities
110.08 Confidential Information
110.09 Force Majeure
110.10 Hold Harmless
110.11 Non Waiver
110.12 Repeal Conflicting Ordinances

110.01 FRANCHISE GRANTED. The City hereby grants a nonexclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of the City and consumers in the vicinity thereof, and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

110.02 TERM; PERIODIC REVIEW. The rights and privileges granted by this chapter shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter.[†] The City shall have the right to review and if, in its sole discretion, deems appropriate, terminate the franchise granted by this chapter The right to review and terminate the franchise may be exercised by City on the following dates: five (5) years from the date of enactment of the ordinance codified by this chapter; ten (10) years from the date of enactment of the ordinance codified by this chapter; fifteen (15) years from the date of enactment of the ordinance codified by this chapter; and twenty (20) years from the date of enactment of the ordinance codified by this chapter. In the event the City elects to terminate the franchise, the Clerk shall notify Grantee in writing at least 180 days before the effective date of termination.

110.03 GOVERNING RULES AND REGULATIONS.

1. The franchise is granted subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided,

[†] **EDITOR'S NOTE:** Ordinance No. 389 adopting a natural gas franchise for the City was passed and adopted on June 20, 2005.

however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and the City shall renegotiate the terms of the franchise in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of the franchise shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing, or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be nondiscriminatory as between communities receiving service from the Grantee.

110.04 FRANCHISE FEES. The City may, during the term of the franchise, in its discretion after public hearing, but not more than once a year, and upon an affirmative vote of a majority of the members of the City Council, impose a franchise fee on customers located within the corporate limits of the City in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by the City must be based on one of the following methods: (i) percentage of gross receipts of regulated sales or transportation revenues collected within the City; (ii) volumetric fee based on the delivery of energy within the corporate City limits; or (iii) flat fee collected from customers on a nondiscriminatory basis who are located within the City; provided however, no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. The City may request that Grantee propose ordinance language that will apply the permitted franchise fee.

110.05 CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES.

1. Any pavements, sidewalks, or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

2. Grantee agrees that for the term of the grant, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as the Grantee determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible.

3. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the

improvements, and the time when the City will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.06 EXTENSION OF COMPANY FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

110.07 RELOCATION OF COMPANY FACILITIES. If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way, or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of Grantee. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along (or to make any unusual use of) any street, alley, avenue, bridge, public right-of-way or public place, which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

110.08 CONFIDENTIAL INFORMATION. The City acknowledges that certain information it might request pursuant to the franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to the City be kept confidential due to such proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. The City shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

110.09 FORCE MAJEURE. It shall not be a breach or default under the franchise if either party fails to perform its obligations due to Force Majeure. Force Majeure includes, but is not limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; (iii)

governmental actions such as the necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, this provision shall not obligate a party to settle any labor strike.

110.10 HOLD HARMLESS. Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, Grantee need not save harmless the City from claims, demands, losses and expenses arising out of the negligence of the City, its employees, or agents.

110.11 NON WAIVER. Any waiver of any obligation or default under the franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

110.12 REPEAL CONFLICTING ORDINANCES. The franchise ordinance, when accepted by Grantee, shall constitute the entire agreement between the City and the Grantee relating to the franchise, and the same shall supersede all prior ordinances pertaining to the franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 177 of the City is hereby repealed as of the effective date hereof.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Right-of-Way Granted
111.03 Excavations and Construction
111.04 Meters
111.05 System
111.06 Franchise Not Exclusive
111.07 Services
111.08 Franchise Fee
111.09 Hold Harmless
111.10 Fees to Be Paid by Company
111.11 Repeal Conflicting Ordinances
111.12 Term of Agreement

111.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the Company, its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat, and power, and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances for the distribution of electric current along, under, and upon the streets, avenues, alleys, and public places in the City, and also the right to erect and maintain upon the streets, avenues, alleys, and public places electric lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for a period of twenty-five (25) years,[†] subject to a limited right of cancellation at the end of the fifteenth (15th) year anniversary of the Anniversary Date as defined herein; also, the franchise includes any right of eminent domain which may be provided in Section 364.2 of the *Code of Iowa*.

111.02 RIGHT-OF-WAY GRANTED. The poles, wires, and appliances shall be placed and maintained so as not to interfere unnecessarily with the travel on said streets, avenues, alleys and public places in said City, or to interfere unnecessarily with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns, shall hold the City free and harmless from all damages arising from any negligent acts or omissions of the Company or the Company's agents in the erection or maintenance of said system.

111.03 EXCAVATIONS AND CONSTRUCTION. In making any excavations in any streets, avenues, alleys or public place, the Company, its successors and assigns, shall protect the site while work is in progress by placing guards, barriers, or signals, and shall not unnecessarily obstruct the use of the streets, and shall backfill all openings in such manner as to prevent settling or depressions in the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if any defects are caused shall repair the same. If Company removes any concrete, asphalt, or other hard surface, Company shall replace same immediately. Any and all backfilling, repair, replacement or surfacing, whether hard surface or not, shall be done in a good, workmanlike and reasonable manner. The Company shall, at its own cost and expense, locate and relocate its existing facilities or equipment in, on, over, or under any public street, avenue, alley or other public place in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street, avenue, alley or public place or any public improvement thereon or to reasonably promote the

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[†] **EDITOR'S NOTE:** Ordinance No. 427 adopting an electric franchise for the City was passed and adopted on September 9, 2010.

efficient operation of such improvement or for any other reasonable cause. The City shall consider reasonable alternatives in designing its public works projects so as not to cause the Company unreasonable additional expense in exercising its authority under this section and shall not arbitrarily require Company to relocate its services. The City shall provide a reasonable alternative location for the Company's facilities, unless Company agrees that a reasonable alternative location is not available. The City shall give the Company reasonable advance written notice in the event the City vacates a public right-of-way. If the City orders the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private (non-public) project, Company shall receive payment for the cost of such relocation prior to such relocation. The vacation of a public right of way shall not deprive Company of its right to operate and maintain existing facilities, unless and until the reasonable cost of relocating its existing facilities or equipment is paid to Company.

111.04 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.05 SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants and shall be kept in a modem and up-to-date condition.

111.06 FRANCHISE NOT EXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.07 SERVICES. Service to be rendered by the Company under the franchise shall be continuous unless prevented by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as reasonably possible.

111.08 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of 0% on the gross receipts from the sale of electricity for customers within the City limits. The Company shall commence collecting the 0% franchise fee on the date of January 1 or July 1, following six months from the date of the acceptance by the Company of the ordinance codified in this chapter and the filing of that acceptance with the City Clerk. The franchise fee may increase up to a maximum of 5% on or after January 1, 2010. The City shall give the Company a minimum six-month notice prior to the implementation of an increase in the franchise fee. The City shall be solely responsible for the proper use of any amounts collected as franchise fees and shall only use such franchise fees for a purpose as allowed by applicable law. Collection of the franchise fee shall cease at the earlier of the City's repeal of the franchise fee or the end of the franchise term.

2. The franchise fee shall be applied to all customers' bills in accordance with *Code of Iowa* Chapter 364.2(f) and 423B.5. The Company shall not grant exemptions or refunds of the franchise fee beyond that granted by the *Code of Iowa*. If at any time the Iowa Utilities Board or another authority having proper jurisdiction prohibits the collection or payment of a franchise fee, the Company shall be relieved of its obligation to collect and pay the franchise fees to the City.

3. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the City and other

administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon any streets, avenues, alleys or public places in the City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special assessment, tax levied by the City, license or rental charge during the term of the franchise. Upon receipt of a final and unappealable order or approval authorizing any voluntary or involuntary annexation or any changes in the City limits, the City Clerk shall provide written notification to an officer or designated representative of the Company of such annexation or change of the City limits, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the City limits, commencing six months from the receipt of the written notice.

4. Any additional charges for the franchise fee or any related fees shall be shown separately on the utility bill to each customer. The Company shall collect franchise fees and shall remit them to the City on a quarterly basis within thirty (30) days after the last day of the last revenue month of the quarter.

5. A franchise fee shall not be assessed to the City as a customer.

6. The City agrees to bear any costs, including attorney fees, and to defend, indemnify and hold Company harmless from any and all liability, claims, or causes of action associated with disputes related to the billing and/or collection of the franchise fee, provided that the City shall not be obligated to bear such costs or to defend, indemnify and hold Company harmless if such disputes arise from claims of inaccurate billing by Company due to Company's wrongful intentional or negligent acts.

111.09 HOLD HARMLESS. The Company, during the term of the franchise, agrees to save and hold harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of the Company, its employees or agents, in the construction, operation and maintenance of any facilities or appurtenances of the Company or reasonable use thereof.

111.10 FEES TO BE PAID BY COMPANY. Any expenses associated with the publication of the franchise ordinance shall be paid by the Company.

111.11 REPEAL CONFLICTING ORDINANCES. The franchise ordinance, when accepted by the Company, shall constitute the entire agreement between the City and the Company relating to this franchise and the same shall supersede all prior ordinances pertaining to the franchise agreement, and any terms and conditions of such prior ordinances or parts thereof in conflict with this chapter are hereby repealed. In no event shall the obligations of the Company or the fees associated with the franchise be modified or altered unless otherwise approved and accepted by the Company.

111.12 TERM OF AGREEMENT. The term of the franchise and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided. The City may cancel this franchise on the fifteenth (15th) year anniversary of the Anniversary Date of the franchise by notifying Company in writing of its desire to do so, said notification to be given within thirty (30) days of said 15th year anniversary. If Company is not notified of the cancellation by the 15th year anniversary, then the franchise shall continue without cancellation until the 25th year. The Anniversary Date

shall be the date the franchise is filed with the City Clerk or is otherwise effective by operation of law.

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CHAPTER 112

ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)

112.01 Franchise Granted
112.02 Indemnification
112.03 Relocation
112.04 Modern System
112.05 Pruning
112.06 Continuous Service
112.07 Non-Exclusivity
112.08 Term of Agreement
112.09 Entire Agreement

112.01 FRANCHISE GRANTED. There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company") the right and franchise to acquire, construct, erect, maintain and operate in the City a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "facilities") along, under and upon the streets, avenues, alleys and public places in the City, and also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City for a period of twenty-five (25) years.[†] The franchise also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

112.02 INDEMNIFICATION. The facilities shall be placed and maintained so as not to interfere unnecessarily with the travel on the streets, alleys, and public places in the City or to interfere unnecessarily with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

112.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its facilities in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its facilities. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities until the reasonable cost of relocating the same are paid to the Company.

[†] **EDITOR'S NOTE**: Ordinance No. 440 adopting an electric transmission system franchise for the City was passed and adopted on August 20, 2012.

112.04 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

112.05 PRUNING. To promote public safety in proximity to its facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

112.06 CONTINUOUS SERVICE. Service to be rendered by the Company under the franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

112.07 NON-EXCLUSIVITY. The franchise granted by this chapter shall not be exclusive.

112.08 TERM OF AGREEMENT. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company. The anniversary date shall be the date the franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

112.09 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company or that delay utility operations.

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CHAPTER 113

REGULATION OF CABLE TELEVISION RATES

113.01 Administration of Rules and Regulations
113.02 Rate Regulation Proceedings
113.03 Certification to FCC and Cable Operator
113.04 Cable Programming Service Tier
113.05 Delegation of Powers Permitted

113.01 ADMINISTRATION OF RULES AND REGULATIONS. The City 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 C.F.R. §§76.900 et seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

113.02 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted under Section 113.01 shall provide a reasonable opportunity for consideration of the view of any interested party, including (but not limited to) the City 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 the City for such proceedings, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in *Code of Iowa* Chapter 362.4, and shall mail, by certified mail, to the Cable Operator a 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 FCC.

2. Said 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 FCC Rules and Regulations; and that the decision of the City is subject to review by the FCC.

3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increase are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual or entity. If the City 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 announce 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 notice accordingly.

4. In the course of the rate regulation proceeding, the City may require 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 City 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. The City may request proprietary information, provided that the City 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. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and of the City to discover any information relevant to the rate regulation proceeding, including (but not limited to) subpoena, interrogatories, production of documents, and deposition.

5. Upon termination of the rate regulation proceeding, the City shall adopt 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.

6. The City 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.

7. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

8. The City 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 Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City 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.

113.03 CERTIFICATION TO FCC AND CABLE OPERATOR. The City 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 City shall notify the Cable Operator that the City 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.

113.04 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 City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City 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.

113.05 DELEGATION OF POWERS PERMITTED. The City may delegate its powers to enforce this chapter to municipal employees or officers ("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.

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CHAPTER 114

CUSTOMER SERVICE STANDARDS FOR CABLE TELEVISION

114.01 Authority
114.02 Notification
114.03 Rules and Procedures
114.04 Noncompliance

114.01 AUTHORITY. The City has the legal authority to adopt and enforce customer service standards for the cable television system in the City as permitted by the Cable Television Consumer Protection and Competition Act of 1992. Upon review of the customer service standards adopted by the Federal Communications Commission (FCC) on March 11, 1993, by MM Docket No. 92-263 of the FCC, and deeming it in the best interest of the City, the City Council herewith adopted by reference the above mentioned customer service standards for cable television service, effective (at least 90 days from passage of the ordinance or date of written notification to Cable Operator, whichever is later).

114.02 NOTIFICATION. The City Clerk shall notify the Cable Operator by registered mail with return receipt that the City has adopted said customer service standards for cable television service to become effective (at least 90 days from passage of the ordinance or date of written notification to Cable Operator, whichever is later).

114.03 RULES AND PROCEDURES. The City Council or Cable Commission appointed by the Council shall establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator. The Council or Commission shall provide for notice and opportunity for hearing for both the customers and the Cable Operator in such process.

114.04 NONCOMPLIANCE. If after notice and opportunity for hearing, the City determines that the Cable Operator is not in complete compliance with all the provisions of the customer service standards, the Cable Operator shall reduce the rate for the basic tier of cable service by [10%, 20%, or 25%] until such time that the City has been satisfied that the Cable Operator is in compliance of all the provisions of the customer service standards. In addition, the Cable Operator shall pay to the City the sum of $100.00 for each day that the Cable Operator fails to be in compliance of all the provisions of the customer service standards after the date that the Council has passed a resolution stipulating the sections where the Cable Operator is in noncompliance.

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CHAPTER 115

BROADBAND TELECOMMUNICATIONS

115.01 Purpose and Scope
115.02 Definitions
115.03 Compliance by City with FCC Rules and Regulations
115.04 Violations Against Franchise
115.05 Franchise Required
115.06 Election and Costs
115.07 Renewal
115.08 Franchise Fee Payment
115.09 Nature of Nonexclusive Franchise
115.10 Franchise Ordinance
115.11 Acceptance and Effective Date
115.12 Reviews
115.13 Transfer
115.14 Conditions of Sale
115.15 Construction Standards
115.16 Operational Standards
115.17 Customer Service Standards
115.18 Testing for Compliance
115.19 Records, Reports and Maps
115.20 Inspection of Property and Records
115.21 Resolving Disputes
115.22 Emergency Alert Override
115.23 Interconnection
115.24 Required Extensions of Service
115.25 Establishment of Telecommunications Commission
115.26 Powers and Duties
115.27 Method of Appointment
115.28 Composition of Commission and Qualifications
115.29 Compensation Members; Meetings and Procedures
115.30 Budget and Funding
115.31 New Developments
115.32 Employment Practices
115.33 Preferential or Discriminatory Practices Prohibited
115.34 Compliance with Applicable Laws and Regulations
115.35 Liability and Indemnification
115.36 Performance Bond
115.37 Receivership and Foreclosure
115.38 Permits and Authorizations
115.39 Transactions Affecting Ownership or Control
115.40 Rights Reserved to the City
115.41 Enforcement: Forfeiture, Revocation, Sanctions and Liquidated Damages
115.42 Further Agreement and Waiver by Franchisee
115.43 Time Is of the Essence
115.44 Impossibility of Performance
115.45 Actions of Parties

115.01 PURPOSE AND SCOPE. The purpose of this chapter is to regulate broadband telecommunications networks in the City, which operate pursuant to City franchise for the provision of cable television and other services and to ensure that such networks' use of the public rights-of-way does not interfere with public health, safety, and welfare and to benefit the citizens of the City through the use of broadband telecommunications networks and technology.

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

1. "Basic cable rates" means the monthly charges for a subscription to the basic cable service tier and the associated equipment.

2. "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals.

3. "Benchmark" means a per-channel rate of charge for cable service and associated equipment which the FCC has determined is reasonable.

4. "Broadband telecommunication network (BTN)" means all of the component, physical, operational and programming elements of any network of cables, optical, electrical or electronic equipment, including cable television, used for the purpose of transmission of electrical impulses of television, radio or data, and other intelligences, either analog or digital, for sale or use by the inhabitants of the City.

5. "Cable Act" means, collectively, the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996, and as may be amended from time to time.

6. "Cable operator" means any person or group of persons:

A. Who provide cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or

B. Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

7. "Cable service" means: (i) the one-way transmission to subscribers of video programming; or (ii) other programming service; and (iii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

8. "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but which term does not include: (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that crosses public rights-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system other than for purposes of Section 621(c) of the Cable Act to the extent such facility is used in the transmission of video programming directly to subscribers; or (iv) any facilities of any electric utility used solely for operating its electric utility systems.

9. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable service and which is capable of delivering a television signal.

10. "Cost of service showing" means a filing in which the cable operator attempts to show that the benchmark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic cable service tier and to continue to attract capital.

11. "Cresco Broadband Telecommunications Commission (CBTC)" means the duly authorized and acting commission appointed by the City Council pursuant to ordinance established for the purpose of administering regulations pertaining to the existence and operation of broadband telecommunications networks within the City.

12. "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

13. "Franchise" or "franchise agreement" means the initial authorization, or renewal thereof, issued by the franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes construction and operation of the cable system.

14. "Franchisee" means any person receiving a franchise pursuant to this chapter and under the granting franchise ordinance and such person's lawful successor, transferee or assignee.

15. "Franchise fee" means any tax, fee or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such. The term "franchise fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their

services but not including a tax, fee, or assessment that is unduly discriminatory against cable operators or cable subscribers; (ii) in the case of any franchise in effect on the date of the enactment of the ordinance codified in this chapter, payments that are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of, the use of PEG access facilities; (iii) in the case of any franchise granted after such date of enactment, capital costs that are required by the franchise to be incurred by the cable operator for PEG access facilities; (iv) requirements or charges incidental to the awarding or enforcing the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or (v) any fee imposed under Title XVII, United States Code.

16. "Grantee" means Triax Midwest Associate, L.P., or the lawful successor, transferee or assigns thereof.

17. "Gross revenues" means any revenue received by the franchises from the operation of the cable system in the service area.

18. "Initial basic cable rates" means the rates that the cable operator is charging for the basic cable service tier, including charges for associated equipment, at the time the City notifies the cable operator of the City's qualification and intent to regulate basic cable service rates.

19. "Must-carry signal" means the signal of any local broadcast station (except superstations) which is required to be carried on the basic cable service tier.

20. "New programming" means programming not previously transmitted over the Cresco PEG access channel, including live or reproduced programs.

21. "Other programming service" means information that a cable operator makes available to all subscribers generally.

22. "Person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

23. "Price cap" means the ceiling set by the FCC on future increases in Basic Cable Service rates regulated by the City, based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

24. "Public educational or governmental access channel (PEG)" means:

A. Channel capacity designated for public educational or governmental use; and

B. Facilities and equipment for the use of such channel capacity.

25. "Public school" means any school at any education level operated within the City by any public, private, or parochial school system, but limited to elementary school, junior high school, and high school.

26. "Public way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including (but not limited to) public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses, and any temporary or permanent fixtures or improvements located thereon, now or hereafter held by the franchising authority in the service area, which shall entitle the franchising authority and the franchisee to the

use thereof for the purpose of installing, operating, repairing and maintaining the cable system. Public way also means any easement now or hereafter held by the franchising authority within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall, within their proper use and meaning, entitle the franchising authority and the franchisee to the use thereof for the purposes of installing and operating the franchisee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

27. "Reasonable notice" means written notice addressed to the franchisee at its principal office of the City or such other office as the franchisee has designated to the City as the address to which notice should be transmitted to it, which notice shall be certified and postmarked not less than four (4) days prior to that day on which the party giving such notice shall commence any action that requires the giving of notice. In computing said four (4) days, Saturdays, Sundays, and holidays recognized by the City shall be excluded.

28. "Reasonable order" means written order not excessive or extreme as to costs or time to comply, governed by sound thinking.

29. "Reasonable rate standard" means a per-channel rate that is at, or below, the benchmark or price cap level.

30. "Service area" means the present municipal boundaries of the franchising authority, and shall include any additions thereto by annexation or other legal means.

31. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

32. "Subscriber" means a person or user of the cable system who lawfully receives communications and other services therefrom with the franchisee's express permission.

33. "Superstation" means any non-local broadcast signal secondarily transmitted by satellite.

34. "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

115.03 COMPLIANCE BY CITY WITH FCC RULES AND REGULATIONS. This chapter shall be amended where necessary to conform to all amendments to Part 76 of the Rules and Regulations of the Federal Communications Commission within twelve (12) months of the order of such amendments.

115.04 VIOLATIONS AGAINST FRANCHISE.

1. It is unlawful for any person without the express consent of the franchisee to make any connection, extension, or division, whether physically, acoustically, inductively, electronically, or otherwise, with or to any segment of a franchised BTN for any purpose whatsoever, except as provided for herein.

2. It is unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a franchised BTN for any purpose whatsoever.

115.05 FRANCHISE REQUIRED. No person shall construct, install, maintain, or operate on or within any street, any equipment or facilities for the distribution of television signals or radio signals or data, either analog or digital, over a BTN to any subscriber unless a franchise authorizing the use of the streets has first been obtained pursuant to the provision of this chapter and thereafter only while said person is legally operating under the terms and provisions of said franchise.

115.06 ELECTION AND COSTS. In order for a nonexclusive franchise to be granted pursuant to this chapter, election must be held and a majority of those voting must vote in favor of the granting of such franchise. The entire cost of the election together with all printing and publishing costs relating thereto shall be prepaid by the applicant selected by the Council to be franchisee, regardless of whether or not the applicant is granted a franchise by said election. When the actual costs of the election are known, the final payment may be adjusted accordingly. This section shall only apply when an election is otherwise required to be held by State and/or Federal law.

115.07 RENEWAL. The City shall have no obligation to renew any franchise granted hereunder except as may be required by Federal or State law. The failure to reissue such a franchise, however, shall not prohibit the franchisee from applying for a new franchise in competition with other applicants for a franchise in the event the City decides to consider proposals from new applicants for the franchise.

115.08 FRANCHISE FEE PAYMENT.

1. The franchisee shall pay to the franchising authority a franchise fee equal to five percent (5%) of gross revenues (as both are defined in Section 115.02 of this chapter) received by the franchisee from the operation of the cable system on a quarterly basis. Such payment shall be in addition to any other payment, charges, or fees owed to the City by the franchisee and shall not be construed as payment in lieu of personal or real property taxes levied by State, County or local authorities. For the purpose of this section, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the franchising authority and the franchisee. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding quarterly period. Each payment shall be accompanied by a detailed report from a representative of the franchisee itemizing the basis for the computation.

2. The annual franchise fee payment percentage designated in this section may be amended no more than once every calendar year upon mutual agreement between the City and the franchisee. Any such amendment shall be consistent with the applicable rules of the FCC and other regulatory agencies. No amendment of the franchise fee payment percentage shall be effective sooner than six (6) months from the date of notice to the franchisee of the amended percentage amount.

3. In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, the franchisee shall pay as additional consideration:

A. An interest charge computed from such due date, at the annual rate of nine percent (9%); plus

B. A sum of money equal to two percent (2%) of the amount due in order to defray those additional expenses and costs incurred by the City by reason of the delinquent payment; provided, however, this paragraph shall not

apply if the underpayment equals less than five percent (5%) of the total amount due.

4. The period of limitation for recovery of any franchise fee payable hereunder shall be ten (10) years from the date on which payment by the franchisee is due. Unless within 10 years from and after such payment due date the franchising authority initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, such recovery shall be barred and the franchising authority shall be stopped from asserting any claims whatsoever against the franchisee relating to any such alleged deficiencies.

5. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the franchisee. In the event of a dispute, the City, if it so requests, shall be furnished a statement of said payment, by a certified public accountant, reflecting the total amounts of annual gross revenues for the period(s) covered by the payment.

115.09 NATURE OF NONEXCLUSIVE FRANCHISE. Any franchise granted hereunder shall not be exclusive and the City reserves the right to grant a similar franchise to any other person at any time.

115.10 FRANCHISE ORDINANCE. In addition to those matters required to be included by virtue of this chapter, the franchise ordinance shall contain such further conditions or provisions as may be included in the franchisee's proposal negotiated between the City and the franchisee.

115.11 ACCEPTANCE AND EFFECTIVE DATE.

1. No franchise agreement or renewal passed by the City Council and, when required by law, approved by a vote of the qualified electors, shall become effective for any purpose unless and until written acceptance thereof shall have been filed with the City Clerk, duly executed by the proper officers of the franchise.

2. The written acceptance shall be filed by the franchisee not later than 12:01 p.m. of the sixtieth day following passage by the City Council or, when required by law, the franchise election granting such franchise, whichever is later. In default of the filing of such written acceptance as herein required, the franchisee shall be deemed to have rejected and repudiated the franchise. Thereafter, the acceptance of the franchisee shall not be received by the City Clerk. The franchisee shall have no rights, remedies, or redress unless and until the Council, by resolution, shall determine that such acceptance be received, which determination shall not be unreasonably withheld, and then upon such terms and conditions as the Council and the franchisee may agree.

3. In addition to the written acceptance and within the same 60-day period, the franchisee shall:

A. File a certificate of insurance as provided herein; and

B. File a performance bond as provided herein unless such bond requirement has been waived by the Council; and

C. Advise the City in writing of the franchisee's address for mail and official notifications from the City; and

D. Provide information necessary to establish that the franchise election and adjusted costs have been paid, when required; and

E. Unless otherwise prohibited by law, such as in the case of a franchise renewal, reimburse the City for its franchising expense in an amount as determined by the City. Said amount, however, shall be reasonable and based on direct costs incurred by the City.

115.12 REVIEWS.

1. On or about the third, sixth, ninth, and twelfth anniversaries of the effective date of the franchise grant or renewal, the City may schedule and hold a public meeting or meetings with the franchisee to review the performance by the franchisee under the franchise including future plans of operation and performance. In particular, the City may inquire whether the franchisee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry to comparable market situations. The franchise shall make available to the City, if requested by the City, such records, documents and information that are relevant to such meeting and inquiry.

2. Any changes in this chapter or the franchise ordinance necessitated by modifications to the FCC regulations shall be incorporated into the franchise ordinance or this chapter within the time limit provided for in the rules and regulations of the FCC then in force and effect.

115.13 TRANSFER. The franchisee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the franchisee as of the effective date of the franchise agreement, without the prior consent of the franchising authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the franchisee in the franchise or cable system in order to secure indebtedness.

115.14 CONDITIONS OF SALE.

1. Except to the extent expressly required by Federal or State law, if a renewal or extension of the franchisee's franchise is denied or the franchise is lawfully terminated, and the franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

2. The franchisee and the franchising authority agree that in the case of a final determination of a lawful revocation of the franchise, at the franchisee's request, which shall be made in its sole discretion, the franchisee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. The franchising authority further agrees that during such a period of time, it shall authorize the franchisee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation unless the Council determines that an extension of greater than six (6) months is warranted. If, at the end of that time, the franchisee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the franchising authority, the franchisee and the franchising authority may avail themselves of any rights they may

have pursuant to Federal or State law, it being further agreed that the franchisee's continued operation of its cable system during the six-month period shall not be deemed to be a waiver or an extinguishment of any rights of either the franchising authority or the franchisee.

115.15 CONSTRUCTION STANDARDS.

1. Compliance with Safety Codes. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as State and local codes where applicable.

2. Compliance With Electrical Codes. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the City Electrical Code and applicable industry standards.

3. Antennas and Towers. Antenna supporting. structures (towers) shall be designed for the proper loading zone.

4. Compliance With Aviation Requirements. Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable State or local codes and regulations.

5. Construction Standards and Requirements. All of the franchisee's plant and equipment, including but not limited to the antenna site, head end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the City may deem proper to make, or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic on municipal properties.

6. Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines and equipment installed or erected by the grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the property use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

7. Restoration of Public Ways. If during the course of the grantee's construction, operation, and maintenance of the cable system there occurs a disturbance of any public way by the grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

8. Relocation at Request of the Franchising Authority. Upon its receipt of ten (10) days' notice from the franchising authority, the grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the grantee when lawfully required by the franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the franchising authority; provided, however, the franchising authority shall make every reasonable effort not to affect grantee's property pursuant to this section. The grantee

shall in all cases have the right to abandon below-ground facilities, provided written notice of such abandonment is provided within twenty (20) days to the City Engineer. If public funds are available to any persons using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, the franchising authority shall make application for such funds on behalf of the grantee, upon written request by the grantee, which reasonably identifies the source of public funds believed to be available and the procedure for applying for such funds together with a statement of commitment to indemnify the franchising authority for all costs incurred in making such application, regardless of whether or not such grant or application is accepted.

9. Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided: (i) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the grantee, making such payment in advance; and (ii) the grantee is given not less than ten business days' advance written notice to arrange for such temporary wire changes.

10. Trimming of Trees and Shrubbery. The grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with the grantee's wires, cables or other equipment. The grantee shall reasonably compensate the franchising authority for any actual damages caused by such trimming or shall, upon mutual agreement with the franchising authority, and at its own cost and expense, replace all trees or shrubs to as near as reasonably possible, their prior condition, which are damaged as a result of any construction of the cable system undertaken by the grantee. Such replacement shall satisfy any and all obligations the grantee may have to the franchising authority pursuant to the terms of this section. For purposes of this section, "damage" shall be deemed to exist if a tree or shrub is killed or will not survive as a proximate cause of grantee's actions.

11. Aerial and Underground Construction. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually capable of receiving the franchisee's cable and other equipment. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct, operate and maintain all of its transmission and distribution facilities, or any part thereof, aerial or underground, however, the Grantee is encouraged by the franchising authority to go underground unless economical and technological reasons would render such undergrounding impractical or unfeasible. Nothing contained in this section shall require the grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, cable system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals or other related equipment.

12. Safety and Nuisance Requirements. The franchise shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and

devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

115.16 OPERATIONAL STANDARDS. Every BTN operating within the City shall comply, at all times, with the technical and operational standards set forth by the FCC governing the operations of such systems.

115.17 CUSTOMER SERVICE STANDARDS.

1. Federal Standards. The grantee will adhere to the customer service obligations as set forth in Title 47, CFR, Part 76, Subpart H, 576.309. Nothing herein shall preclude the City from adopting an ordinance further relating to the enforcement of such customer service obligations.

2. Office and Phone for Service. Grantee agrees to maintain a trained cable technician stationed in Cresco. Grantee agrees to maintain a local drop box for receiving subscriber payments at a site to be mutually determined by Grantee and the City. Grantee further agrees to either maintain or arrange for a location where equipment can be dropped off or exchanged as is necessary or, in the alternative, establish a system for having the equipment picked up at the subscriber residence.

3. Notification of Service Procedures. The franchisee shall furnish each subscriber at the time service is installed written instructions that clearly set forth procedures for placing a service call, or requesting an adjustment. Said instructions shall also include the name, address and telephone number of the City Clerk or other designated employee and a reminder that the subscriber can call or write the City Clerk or other designated employee for information regarding terms and conditions of the franchisee's franchise if the franchisee fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

115.18 TESTING FOR COMPLIANCE.

1. The franchising authority may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the franchisee or the cable system in order to determine whether or not the franchisee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the franchisee reasonable notice thereof, not to be less than fourteen (14) business days, and providing a representative of the franchisee an opportunity to be present during such tests. In the event that such testing demonstrates that the franchisee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the franchisee. In the event that such testing demonstrates that the franchisee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the franchising authority. Except in emergency circumstances the franchising authority agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the franchisee.

2. Upon reasonable request by the franchising authority, the franchisee shall make available copies of any and all technical tests data required to be filed with the FCC by the franchisee.

115.19 RECORDS, REPORTS AND MAPS.

1. Reports Required. Upon reasonable request by the City, the franchisee shall provide:

A. "Strand map" setting forth the physical miles of plant constructed, rebuilt or in operation during the fiscal year.

B. The franchisee's schedule of charges, number of subscribers, contract or application forms for regular subscriber service, policy regarding the processing of subscriber complaints, relinquishment subscriber disconnect and reconnect procedures and any other times and conditions adopted as the franchisee's policy in connection with its subscribers.

C. All policies of insurance or certified copies thereof and a certificate of insurance for all coverage required hereunder.

D. The performance bond or certified copy thereof and written evidence of payment of required premium.

2. Upon reasonable request by the City, the franchisee shall file with the City:

A. All petitions, applications, and communications of all types submitted by franchisee to the FCC, or any other Federal or State regulatory commission or agency having jurisdiction over any matter affecting operation of franchisee's cable system and to the extent required by law, the network shall be submitted to the City by delivery to the City Clerk who shall advise interested City departments of such filing.

B. A summary list of all complaints and network "down time" received or experienced during the year.

C. One copy of a report on the cable system and, to the extent required by law, the network's technical measurements as set forth herein. For any cable system, the FCC CLI report will satisfy this requirement.

3. Records Required. The franchisee shall, at all times, maintain:

A. A record of all complaints received and interruptions or degradation of service experienced for the preceding two (2) years.

B. A full and complete set of plans, records, and "as-built" maps showing the exact location of all BTN equipment installed or in use in the City, exclusive of subscriber service drops.

115.20 INSPECTION OF PROPERTY AND RECORDS. At all reasonable times, franchisee shall permit examination by any duly authorized representative of the City Clerk or City Engineer of all franchise property; together with any appurtenant property of franchise situated within or without the City. Franchisee shall also permit any duly authorized representative of the City to examine and transcribe any strand maps and other records kept or maintained by franchisee reasonably related to the City's enforcement of the franchise.

115.21 RESOLVING DISPUTES. The Council may do all things which are necessary and proper in the exercise of its jurisdiction under this chapter and may make a determination concerning any question of fact which may arise during the existence of any franchise granted hereunder. The CBTC is hereby controversy or charge arising from the operations of any franchise either on behalf of the City, the franchisee, or any subscriber, in the best interest of

the public. Either the franchisee or any member of the public who may be dissatisfied with the decision of the CBTC may appeal the matter to the Council for hearing and determination. The Council may accept, reject, or modify the decision of the CBTC, and the Council may adjust, settle, or compromise any controversy or cancel any charge arising from the operations of the franchisee or from any provision of this chapter. Any decision adverse to the Grantee's interest hereunder, may be appealed to an appropriate court of competent jurisdiction.

115.22 EMERGENCY ALERT OVERRIDE. The franchisee shall comply with rules promulgated by the FCC regarding the Emergency Broadcast System (EBS) in providing the capability for an emergency override audio alert whereby a designee of the City, in times of emergency, may introduce an audio message on all broadband telecommunications network channels simultaneously. The franchising authority shall hold the franchisee, its agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including, but not limited to, reasonable attorneys' fees and costs.

115.23 INTERCONNECTION. Upon reasonable request by the franchising authority and to the extent required by law, the franchisee shall so construct, operate, and modify the network as to have the capability to interconnect the same into all BTNs adjacent to or entering the City, provided it is financially and technically feasible to do so. The City shall hold the franchisee harmless from any cost or liability of said interconnection in the event the franchisee is unable to charge subscribers reasonable rates to receive service provided from the interconnected network.

115.24 REQUIRED EXTENSIONS OF SERVICE.

1. Franchisee shall extend the cable system and cable service, as defined herein, to all parts of the City which have been platted and laid out into blocks divided by streets. In the instance of newly platted subdivisions and newly annexed additions to the corporate boundaries of the City, after the effective date of any franchise agreement, franchisee shall extend its cable system and provide service to such new subdivisions whenever franchisee shall receive a request for service from at least five (5) subscribers within 1,320 cable-bearing strand feet (1/4 cable mile) of its trunk or distribution cable. The franchisee shall make reasonable efforts to coordinate the extension of its facilities with the installation of public utilities and services in such new subdivisions and annexed areas in the same manner and at the same times as required with respect to other public utilities and service as provided by Chapter 170, Subdivision Regulations, of this Code of Ordinances.

2. The franchisee may extend cable service to subscribers where density is less than as set forth in subsection 1 above; however, franchisee shall not require a capital contribution greater than the actual cost plus labor of the franchisee in extending said service. The franchisee may require that payment of such a capital contribution be paid in advance.

115.25 ESTABLISHMENT OF TELECOMMUNICATIONS COMMISSION. There is hereby created and established a permanent Commission, as an administrative agency of the City, a 5-member Commission to be entitled "Cresco Broadband Telecommunications Commission" (CBTC).

115.26 POWERS AND DUTIES. The powers and duties of the CBTC shall be as follows:

1. To create and maintain an appropriate source of information and expertise regarding broadband telecommunications technologies, services, regulation, and policy.

2. To monitor the activities of all broadband telecommunications service providers operating within the City or providing service to any point within the City.

3. To serve as the initial source of enforcement of all City codes, rules, or regulations affecting the operation of BTNs or services within the community.

4. To annually report to the City Council regarding the state of BTNs and services within the City and to generally advise the City Council of developments within the field of broadband telecommunications which may be of importance to the citizens of the City and to make such recommendations as the Commission feels are in order.

5. To promote education and awareness within the City among its citizens as to the uses and services available through local BTNs including, but not limited to, matters relating to consumer protection, customer service and access to such networks by citizens and public or private institutions.

6. To receive and respond to citizen input and assist in the resolution of complaints between local BTNs or BTN service providers and their local customers.

7. To carry out a thorough triennial review of any private BTN operating within the City under a cable television franchise to determine whether the operator of the BTN is in compliance with all terms and conditions of the franchise and the compliance with all terms and conditions of the franchise and the degree to which the operator's performance is deemed to be satisfactory by the public. Such review should also include recommendations to the City Council and to any such operator setting forth proposed action the CBTC finds will promote utility and use of broadband telecommunications technologies and services within the community.

8. To develop and promulgate such rules for the implementation and enforcement of the provisions of this chapter as, from time to time, the Commission shall deem necessary and useful.

9. Implement and carry out such rate regulations as is permitted by law and as directed by the City Council.

10. To administer and facilitate the development of PEG access facilities and programming within the City.

11. To take such further action as the CBTC believes is appropriate in administering and fulfilling its duties as set forth.

115.27 METHOD OF APPOINTMENT. The members of the CBTC shall be appointed by the Mayor and Council in accordance with such other general procedures for appointments to administrative agencies as may have been established by ordinances of the City.

115.28 COMPOSITION OF COMMISSION AND QUALIFICATIONS.

1. The commission shall consist of three (3) voting members plus at least two (2) ex-officio members who shall be current members of the City Council. The three (3)

voting members of the Commission shall be any adult citizen of the City who does not hold an elected municipal office.

2. Appointment of the voting members of the Commission shall be for staggered terms of five (5) years beginning on the first of the year in which the appointment is made. The ex-officio members of the Commission shall serve at the pleasure of the Mayor and for such term as the Mayor shall determine. If a position becomes vacant before expiration of the term of office, the Mayor shall appoint a person to serve the balance of the unexpired term in accordance with established procedures. No person shall be appointed to serve more than two (2) consecutive full terms. Any member may be removed from the Commission by a two-thirds (2/3) majority vote of the City Council without cause and at any time.

115.29 COMPENSATION MEMBERS; MEETINGS AND PROCEDURES.

1. All members shall serve without compensation except that reasonable actual expenses incurred by members in the performance of their duties may be reimbursed in accordance with the procedures established by the CBTC, the City Council or this Code of Ordinances.

2. The CBTC shall meet at such time and in such places as the members deem appropriate provided that at least one meeting is held during each calendar quarter of the year. Minutes of all such meetings shall be recorded and permanently retained. A quorum of two voting members shall be required for members to conduct their business. All such meetings and proceedings of the Commission shall conform with this Code of Ordinances and the *Code of Iowa* with respect to notice to the public, publication of agendas and access to meetings. The Business Manager of the City of Cresco and the Chairperson of the CBTC shall jointly determine the regular time and place of each quarterly meeting.

115.30 BUDGET AND FUNDING. Each year the CBTC shall prepare and deliver a budget request to the City Council setting forth the Commission's requested budget to finance CBTC activities during the next budget year. Said budget shall not exceed 60 percent of the anticipated revenues to be received from the franchisee in payment of franchise fees to the City.

115.31 NEW DEVELOPMENTS. The City Council and franchisee may mutually agree to amend this chapter whenever necessary to enable the franchisee to take advantage of any developments in the field of transmission of communications signals which will afford it an opportunity to more effectively, efficiently or economically serve its customers; provided, however, this section shall not be construed to require the City and the franchisee to make any such amendment.

115.32 EMPLOYMENT PRACTICES.

1. In carrying out the construction, maintenance and operation of the BTN, the franchisee shall not discriminate against any employee or applicant for employment because of race, creed, age, color, sex, national origin or handicap.

2. To the extent required by State and/or Federal law, the franchisee shall take affirmative action to ensure that applicants are employed, and that employees are treated during the employment, without regard to their race, creed, color, sex, age, handicap or national origin. Such action shall include, but not be limited to the following employment, upgrading, demotion or transfer, recruitment or recruitment

advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

3. The franchisee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

4. The franchisee shall, in all solicitations or advertisements for employees placed by or on behalf of the franchisee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, national origin age or handicap.

5. The franchise shall incorporate the foregoing requirement in all of its contracts for work relative to construction, maintenance and operation of the BTN, other than contacts for standard commercial supplies or raw materials, and shall require all of its contractors for such work to incorporate such requirements in all subcontracts for such work.

115.33 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

1. Service to be Equally Available. The franchisee shall not, as to rates, charges, service, rules, regulations or in any other respect make or grant any preference or advantage to any person, not subject any person to any prejudice or disadvantage based upon, but not limited to, that person's race, creed, color, sex or national origin. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscription to the network or other legitimate uses thereof, nor shall it be deemed to prohibit the establishment of a graduate scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled.

2. Fairness of Accessibility. The entire network of the franchisee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies or other entities having a legitimate use for the network; and no one shall be arbitrarily excluded from its use; allocation of use of said facilities shall be made according to the rules or decisions of the franchisee and any regulatory agencies affecting the same.

115.34 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS. Franchisee, at its expense, shall comply with all State and Federal laws, orders and regulations and the lawful exercise of any municipal police powers.

115.35 LIABILITY AND INDEMNIFICATION.

1. The franchisee shall indemnify and hold harmless the City, its officers, boards, commissions, agents, and employees against and from all claims, demands, causes of actions, actions, suits, proceedings, damages, including (but not limited to) damages to City property and damages arising out of copyright infringements, and damages arising out of any failure by franchisee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by franchisee's BTN, costs or liabilities (including costs or liabilities of the City with respect to its employees), of every kind and nature whatsoever, arising out of franchisee's construction, operation, and maintenance of the cable system, including but not limited to damages for injury or death or damage to person or property. Provided, the franchisee shall not be liable for any such damages, fees, or expense where any

lawsuit is based on the actions or omissions of the City but not on any act or omission by the franchisee. Franchising authority shall give the franchisee written notice of its obligation to indemnify the franchising authority within twenty (20) days of receipt of any claim or action described in this section. No such notice shall be required where the franchisee has actual notice of its obligation to indemnify the franchising authority, nor shall lack of notice within 20 days be a defense to any claim for indemnification by the franchising authority unless the franchisee can show actual prejudice occurred as a result of the failure of the franchising authority to provide notice within said 20-day period. Furthermore, if the franchising authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the franchising authority unless the need for separate counsel arises due to actual conflicts of interest between the franchising authority and the franchisee, in which event the franchisee shall remain responsible for all costs of franchising authority's defense.

2. The franchisee shall maintain and pay all premiums, etc., for a general comprehensive liability insurance policy, naming as additional insured the City, its officers, boards, commissions, agents and employees, in a company licensed to do business in Iowa with a Best rating of A- or above, protecting against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of the franchisee under any franchise granted hereunder in the amount of:

A. $500,000.00 for bodily injury or death to any one person, within the limit, however, of $1,000,000.00 for bodily injury or death resulting from any one accident.

B. $250,000.00 for property damage resulting from any one accident.

C. Worker's compensation insurance in such coverage as may be required by the worker's compensation insurance and safety laws of the State and amendments thereto.

3. The insurance policies referred to above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the terms of this chapter and shall contain the following endorsements: "It is hereby understood and agreed that this policy may not be cancelled or the amount of coverage thereof reduced until thirty (30) days after receipt by the City by registered mail, of written notice of such intent to cancel or reduce the coverage."

115.36 PERFORMANCE BOND. The franchisee shall maintain, throughout the period of network construction, a faithful performance bond in favor of the City, with a surety approved by the City in the penal sum total of $100,000.00, conditioned upon the faithful performance by the franchisee of its obligations under this chapter and the franchise. When the network construction is substantially completed as defined herein, the penal sum total of the performance bond shall be reduced to $10,000.00 through the remainder of the term of the franchise, or any renewal or extension thereof and upon the further condition that in the event the franchisee shall fail to comply with any law, ordinance, or regulation governing the franchise, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages of loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the franchisee, plus a reasonable allowance for attorney fees and costs, up to the full amount of the bond. The City, at its sole discretion, may at any time subsequent to completion of the construction, waive the requirement of the franchisee to maintain said bond. The bond shall

contain the following endorsement: "It is hereby understood and agreed that this bond may not be cancelled or the intention not to renew be stated until thirty (30) days after receipt by the City by registered mail a written notice of such intent to cancel or not to renew."

115.37 RECEIVERSHIP AND FORECLOSURE.

1. Any franchise granted hereunder shall, in the case of foreclosure or receivership and at the option of the City Council or its designee, cease and terminate within 120 days or unless:

A. Such receivers or trustees shall have, within 120 days after their election or appointment, fully complied with all the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivers or trustees within said 120 days shall have remedied all defaults under the franchise.

B. Such receivers or trustees shall, within said 120 days execute an agreement duly approved by the court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by every term, provision, and limitation of the franchise herein granted.

2. In the case of a foreclosure or other judicial sale of the plant, property, and equipment of the franchisee, or any part hereof, including or excluding the franchise, the City Council or its designee may serve notice of termination upon the franchisee and the successful bidder at such sale, in which event the franchise and all rights and privileges of the franchise hereunder shall cease and terminate thirty (30) days after service of such notice consistent with Federal law.

A. The City Council shall have approved the transfer of the franchise, as and in the manner in this chapter provided.

B. The successful bidder shall have covenanted and agreed with the City to assume and be bound by all terms and conditions of the franchise and this chapter.

115.38 PERMITS AND AUTHORIZATIONS.

1. The franchisee shall diligently apply for all necessary permits and authorizations required in the conduct of its business, and shall diligently pursue the acquisition thereof, including necessary pole attachment agreements, and necessary authorizations from the Federal Aviation Administration to construct such receiving antenna towers as may be required, and any necessary authorization or waivers from the FCC.

2. The franchisee shall not apply for any waivers, exceptions, or declaratory rulings from the FCC or any other Federal or State regulatory agency without reasonable notification to the City Administrator or such officer's designee.

115.39 TRANSACTIONS AFFECTING OWNERSHIP OR CONTROL. Express approval of the City Council shall be required where ownership or control of the right of control of, or interest in, the franchise is acquired by a person or group of persons acting in concert, none of whom already owns the right of control, as "control" is defined by Federal statute or FCC regulation. In the absence of such definition, "control" shall be deemed to mean 50 percent of the right of control or interest in the franchise.

115.40 RIGHTS RESERVED TO THE CITY.

1. Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the franchisee consistent with State and Federal law.

2. There is hereby reserved to the City every right and power that is required to be herein reserved or provided by any law, and the franchisee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any lawful action or requirements of the City, passed pursuant to the legitimate exercise of its police power.

3. Neither the granting of any franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

4. If the FCC or any other Federal or State body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of any franchise granted under this chapter, to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the City the jurisdiction of the City shall cease and no longer exist.

5. Subject to State or Federal law, at the expiration of the term for which a franchise is granted or upon the termination and cancellation as provided therein, the City reserves the right to require the franchisee to remove at its own expense any aerial or above ground portions of the BTN from the public ways within the City.

6. Nothing herein shall be deemed or construed to be intended to expand or enlarge the scope of authority of the City to exercise its governmental rights and powers.

115.41 ENFORCEMENT: FORFEITURE, REVOCATION, SANCTIONS AND LIQUIDATED DAMAGES.

1. Grounds for Revocation. The City reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default and breach under this chapter and the franchise ordinance:

A. If the franchisee should default in the performance of any of its material obligations under this chapter or under the franchise ordinance or under such documents, contracts, and other terms and provisions entered into by and between the City and the franchisee.

B. If the franchisee should fail to provide or maintain, in full force and effect, the liability and indemnification coverage or the performance bond as required herein.

C. If any court of competent jurisdiction, the FCC or any State regulatory body by rules, decision or other action determines that any material provision of the franchise documents, including this chapter, is invalid or unenforceable prior to the commencement of construction of the network by the franchisee.

D. If the franchisee fails to receive necessary FCC certification.

2. Procedure Prior to Sanction or Revocation.

A. The City may make written demand that the franchisee do or comply with any term or condition under this chapter or the franchise ordinance. Any such demand shall specify with particularity the alleged violation by grantee. Grantee shall have ten (10) days from its receipt of the aforementioned demand to notify City that it disagrees with the City's determination that a violation has occurred. Such notice shall toll the running the timeframe herein and this issue shall be placed on the agenda of the next regularly scheduled Council meeting, where grantee shall be given an opportunity to be heard before the Council. The Council shall issue written findings of fact in the event it determines a violation has occurred and shall serve such written determination on the grantee in order to restart the timeframe herein. If the failure, refusal, or neglect of the franchisee continues for a period of thirty (30) days pursuant to this section, the City shall cause to be served upon such franchisee, at least ten (10) days prior to the date of the next Council meeting, a written notice of such officer's intent to request such termination, and the time and place of the meeting, notice of which shall be published by the City Clerk at least one to ten days before such meeting in a newspaper of general circulation within the City.

B. The Council shall consider the request of BTC and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the franchisee was with just cause.

C. If such failure, refusal, or neglect by the franchisee was with just cause, the Council shall direct the franchisee to comply within such time and manner and upon such terms and conditions as are reasonable.

D. If the Council shall determine such failure, refusal or neglect by the franchisee was without just cause, the Council may, by resolution, declare that the franchise of such franchisee shall be terminated and bond forfeited unless there be compliance by the franchisee within such periods as the Council may fix.

E. The franchisee may appeal any decision by the City Council hereunder, to a court of competent jurisdiction. The franchise shall remain in full force and effect until the issue of termination has been finally adjudicated.

3. Restoration of Property. In removing its plant, structures and equipment, the franchisee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in reasonably as good a condition as prevailing prior to the company's removal of its equipment and appliances, without affecting the electrical or telephone cable wires, or attachments. The City shall inspect and approve the conditions of the public ways and public places, and cables, wires, attachments and poles after removal. The liability indemnity and insurance as provided herein and the performance bond provided herein shall continue in full force and effect during the period of removal and until full compliance by the franchisee with the terms and conditions of this subsection and this chapter.

4. Restoration by City, Reimbursement of Costs. In the event of a failure by the franchisee to complete any work required by subsection 3 above, or any other work required by City law or ordinance within the time as may be established and to the reasonable satisfaction of the City, the City may cause such work to be done and the

franchisee shall reimburse the City the costs thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs through the performance bond provided by franchisee. The City shall be permitted to seek legal and equitable relief to enforce the provisions of this subsection.

5. Extended Operation. Upon either the expiration or revocation of a franchise, the City may require the franchisee to continue to operate the network for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. The franchisee shall, as trustee for its successor in interest, continue to operate the BTN under the terms and conditions of this chapter and the franchise and to provide the regular subscriber service and any and all of the services that may be provided at that time. The City shall be permitted to seek legal and equitable relief to enforce the provisions of this subsection.

6. Lesser Sanctions. Nothing shall prohibit the City in enforcing its rules and regulations to impose lesser sanctions or censures for violations of provisions of this chapter or the franchise ordinance rather than revocation.

7. Liquidated Damages. By acceptance of the franchise, franchisee agrees that failure to comply with the provisions therein and this chapter will result in damage to the City, and that it will be impracticable to determine the actual amount of such damage; and franchisee therefore agrees that, in addition to any other damages suffered by the City, franchisee will pay to the City the following liquidated damages:

A. For failure to timely file required plans or information, $25.00 per day.

B. For failure to comply with lawful and reasonable orders of the City, $25.00 per day.

C. For willful or negligent failure to complete construction or commence operations in accordance with this chapter, $25.00 per day.

D. For willful or negligent failure to provide service in substantial compliance with the provisions of this chapter, not to exceed $100.00 per day as determined by the City.

E. In the event franchisee disagrees with the imposition by the City of any of the above listed liquidated damages, such damages will continue to accrue but will not be required to be paid until franchisee has received reasonable notice and an opportunity to be heard before the City Council and the City Council has determined that payment of such damages is appropriate.

F. The franchisee may appeal any adverse decision of the City Council hereunder to a court of competent jurisdiction.

8. City's Rights Not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the City under the franchise or any provision of law.

115.42 FURTHER AGREEMENT AND WAIVER BY FRANCHISEE. The franchisee shall not be excused from complying with any of the terms and conditions of this chapter or the franchise ordinance by and failure of the City, upon any one or more occasions, to insist upon the franchisee's performance or to seek franchisee's compliance with any one or more of such terms or conditions.

115.43 TIME IS OF THE ESSENCE. Whenever this chapter or the franchise sets forth any time for any act to be performed by or on behalf of the franchisee, such time shall be deemed of the essence and the franchisee's failure to perform within the time allotted shall, in all cases, be sufficient grounds for the City to invoke the remedies available under the terms and conditions of this chapter and the franchise.

115.44 IMPOSSIBILITY OF PERFORMANCE. The franchisee shall not be held in default or noncompliance with the provisions of the franchise, or suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

115.45 ACTIONS OF PARTIES. In any action by the franchising authority or the franchisee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

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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 that 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. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(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 that 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 that 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 that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

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 that 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 Alcoholic Beverages Division of the Department of Commerce 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 within 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 Alcoholic Beverages Division of the Department of Commerce 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 Bond Required and Criminal History Report
122.06 License Fees
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 Hearing
122.13 Record and Determination
122.14 Appeal
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 that 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. At least 3 business days prior to the first day any sale is made, an application in writing shall be filed with the City Clerk for a license under this ordinance. Such application shall set forth the applicant's name, date of birth and social security number; permanent and local address; business address, if any; local and permanent telephone number; valid government issued identification; and criminal background of all sales persons. The application shall also set forth the applicant's employer, if any, and the employer's address; telephone number; and the length of time sought to be covered by the license. A copy of the Iowa Sales Tax Certificate and appropriate bonds must accompany the application. A nonrefundable application fee of $100 is due for each applicant.

122.05 BOND REQUIRED AND CRIMINAL HISTORY REPORT.

1. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the City Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

2. No peddlers license shall be issued until the applicant has delivered to the City Clerk a cash bond for no less than $300.00 per license.

A. The bond shall be held to indemnify and pay the city any penalties or costs incurred in the enforcement of any of the sections of this article and indemnify or reimburse any purchaser of services, goods, wares, merchandise or stock for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such services, goods, wares, merchandise or stock, whether the misrepresentations were made by the owner or by his or her servants, agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such stock of goods, wares, merchandise, services or any part thereof.

B. The balance of the bond shall be released by the city clerk and returned to the applicant or employer upon request by the applicant or employer at any time more than four months after expiration of the peddlers license(s) for which the cash bond was provided, unless the City Clerk has received notice of a pending action in the state or federal courts seeking a judgement upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any such action.

C. A Department of Criminal Investigation criminal history report/record for applicant from the state of applicant's residence for the previous five years to include pending charges, such report or record must be dated no more than 30 days prior to the application.

122.06 LICENSE FEES. A license fee of twenty-five dollars ($25.00) per day for each applicant shall be paid to the City Clerk prior to the issuance of any license.

122.07 LICENSE ISSUED. If the City 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 bond as required in Section 122.05 is in good standing with the Secretary of State, the Clerk shall issue, a license and charge a fee as determined by Sections 122.04 and 122.06. Application processing time will be no more than 10 days.

(Sections 122.04 to 122.07 – Ord. 468 – June 17 Supp.)

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. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to 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.

The Clerk shall send the written notice to the licensee at the licensee's local address. The 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.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 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. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars ($5.00) of the original fee shall be retained by the City to cover administrative costs.

122.17 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 Howard-Winneshiek Community School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Notification Required
123.05 Insurance Required
123.06 Permit Fee
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than 300 square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, Public Works Director, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 NOTIFICATION REQUIRED. The applicant must provide the City with notice at least 48 hours prior to the time when the building or other structure is scheduled to be moved.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – $50,000 per person; $100,000 per accident.

2. Property Damage – $50,000 per accident.

123.06 PERMIT FEE. A permit fee of twenty dollars ($20.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

EXCAVATOR LICENSE

124.01 License Required
124.02 Application and Fee
124.03 Certificate of Insurance Required
124.04 Bond Required
124.05 Suspension of License
124.06 Utility Companies

124.01 LICENSE REQUIRED. No person shall engage in the business of excavating in any street, parking, alley, or other public property in the City without first having obtained an annual excavator license in accordance with the provisions of this chapter and an excavation permit in accordance with Section 135.09 of this Code of Ordinances.

124.02 APPLICATION AND FEE. A written application for an excavator license shall be filed with the Clerk on forms provided by the Clerk. The annual fee for an excavator license is fifty dollars ($50.00). All licenses may be renewed annually upon application of the licensee and payment of the license fee to the Clerk.

124.03 CERTIFICATE OF INSURANCE REQUIRED. No license shall be issued to any excavator until the excavator files a certificate of insurance with the Clerk indicating that the applicant is carrying public liability insurance in effect for the duration of the license, covering the acts of the applicant, the applicant's agents and employees for the following minimum amounts:

	Per Person	Per Accident
Bodily Injury	$300,000	$300,000
Property Damage		$300,000

124.04 BOND REQUIRED. The applicant shall also post with the City a yearly penal bond in the minimum amount of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the applicant's payment for any damage done to the City or to public property.

124.05 SUSPENSION OF LICENSE. The license of any excavator shall be suspended upon receipt by the City of a notification of a cancellation of the licensee's liability insurance and may be reinstated only upon filing a new certificate. A license may be suspended by the Council at any time that it appears that the excavator has violated any ordinances, resolutions or specifications of the City relating to the licensee's work or for any negligence or improper work on the part of the licensee in relation to or in connection with any excavation work. Such suspension shall only be made after a hearing upon proper notice being served to the licensee. The notice shall state the time and place of hearing and the reason for the intended revocation.

124.06 UTILITY COMPANIES. Utility companies shall be licensed in accordance with this chapter, but it is presumed that the companies have adequate public liability insurance coverage and therefore do not need to file a certificate of insurance or post a bond.

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CHAPTER 125

TREE TRIMMERS

125.01 Definition
125.02 Annual License
125.03 Insurance Required
125.04 Removal of Trimmings
125.05 Municipal Utilities

125.01 DEFINITION. The term "tree trimmer" as used herein means any person who solicits the work of felling trees, or who cuts or trims any tree or limbs or branches of any tree or shrubs, or who offers services in the diagnosis and treatment of diseases of any tree, for a valuable consideration.

125.02 ANNUAL LICENSE. Every tree trimmer shall annually, before engaging in any service designated in this chapter, obtain a license from the Clerk and shall pay an annual license fee of fifty dollars ($50.00) and shall not be prorated. The application for the license shall give information testing the applicant's qualifications for the license and the nature of the equipment available. If the information on the application discloses a doubt as to the qualifications or equipment, the Clerk shall refer the application to the Public Works Director, who shall order an examination as to competency of applicant, who shall, within fifteen (15) days, report on the assertions in the application. All licenses shall terminate on December 31 of the year issued.

125.03 INSURANCE REQUIRED. Before any such license shall be issued, the applicant shall obtain and file with the Clerk a public liability insurance policy, insuring against any loss that the City or any person may sustain arising out of or in connection with such services performed by such tree trimmer. Such insurance coverage shall include not less than $300,000.00 property damage, $300,000.00 for a single personal injury or death, and with limits of not less than $300,000.00 for multiple injuries or death. This coverage shall be in addition to automobile public liability insurance required for any car or truck operated by the licensee in conducting business. Such policy shall contain a provision that it may not be canceled except after thirty (30) days' notice to the Clerk.

125.04 REMOVAL OF TRIMMINGS. Any person having a license required by this chapter shall immediately, at his or her own expense, remove all trunks, limbs, branches, twigs, shrubs or brush and properly dispose of them at the yard waste facility in accordance with the City's yard waste program.

125.05 MUNICIPAL UTILITIES. Nothing in this chapter shall prohibit the municipal utilities from performing tree trimming and cutting of trees within the right-of-way and maintenance of electric lines.

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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 Snow Piles Near Intersections and Fire Hydrants
135.14 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. It is unlawful to place signs of any kind on any street.

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. Licensed Excavator. No person except an excavator licensed by the City, in accordance with Chapter 124 of this Code of Ordinances, shall make any excavation in any street, parking, or alley within the City. Provided, however, this subsection does not apply to City employees or persons acting under and by virtue of a contract with the City.

2. 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*.

3. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

4. 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 excavator/property owner.

5. Backfilling and Compaction. All excavations on dirt streets shall be backfilled with sand to within eight (8) inches of the surface and then filled with crushed rock. All permanent surfaced streets shall be backfilled with sand to within twelve (12) inches of the base of the permanent surface, then filled with twelve (12) inches of crushed rock and resurfaced with the same material as removed. All excess dirt shall be removed by the excavator.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the excavator/property owner.

7. Inspection. All work shall be subject to inspection by the City.

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 excavator/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the excavator and/or property owner. The excavator and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

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 other than employees of the City's Public Works Department, when carrying out the duties of the department, 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 SNOW PILES NEAR INTERSECTIONS AND FIRE HYDRANTS.

1. Snow shall not be piled or deposited in excess of three (3) feet high within twenty (20) feet in any direction of the apex of any corner of an intersection.

2. Snow shall not be piled or deposited within three (3) feet in any direction of any fire hydrant.

3. In the event that snow remains in such piles or deposits for more than twenty-four (24) hours, the City shall have the power to remove the piles and to assess the reasonable cost thereof against the property owner.

135.14 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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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 24 hours, 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-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

   A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.

   B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

   C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

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 finish or wood float finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 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 FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 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.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose 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
51	October 14, 1901		
172	June 5, 1912		
174	August 19, 1912		
195	November 22, 1915		
196	June 27, 1916		
--	October 10, 1921		
--	September 3, 1934		
--	April 5, 1937		
--	May 1, 1937		
--	December 6, 1937		
--	June 6, 1939		
--	May 7, 1945		
--	May 4, 1953		
107	February 9, 1955		
114	November 7, 1955		
130-1963	May 6, 1963		
141	April 3, 1972		
153	May 28, 1974		
117B			
206	December, 1986		
470	November 20, 2017		

CHAPTER 138

STREET GRADES

138.01 Established Grades **138.02 Record Maintained**

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
	April 25, 1921	212	June 6, 1988
	November 9, 1922	217	August 7, 1989
	October 9, 1923	258	May 1, 1995
	October 5, 1926	274	November 6, 1995
	August 1, 1927	372	April 5, 2004
	December 12, 1928	436	November 7, 2011
	September 2, 1929	437	November 7, 2011
	May 19, 1931	453	May 19, 2014
	August 1, 1932	474	June 4, 2018
	September 4, 1951		
116	June 15, 1964		
122	July 26, 1967		
138	August 23, 1971		
143	July 17, 1972		
165A	August 16, 1976		
168	June 20, 1977		
192	April 18, 1983		
193	June 4, 1983		
194	August 15, 1983		

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. 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)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Cresco, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Parking Restricted

140.01 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)

140.02 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 no right or easement or 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)

140.03 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)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-139-1 45-07. On the Primary Road System extension improvement, Project No. FN-139-1 45-07, Primary Road No. 139, within the City, described as follows:

From Station 676+54.8 (SCL) to Station 701+77.0

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-139-1 45-07, on file in the office of the Clerk.

140.05 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 that separates such service road from the controlled access facility property.

140.06 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.

2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of 35 feet.

3. Diagonal Parking on Minor Street. Where diagonal parking is permitted, on the minor street approach, parking shall be restricted so that a 55-foot stop sign distance is maintained.

4. Intersection. Parking shall be prohibited on the Primary Road Extensions a distance of fifty-five (55) feet in advance of the near crosswalk and a distance of twenty-two (22) feet beyond the far crosswalk.

5. Project No. FN-139-1 45-07. Parking of any nature is prohibited on Project No. FN-139-1 45-07 between Station 676+54.8 (SCL) to Station 701+77.0.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Public Works Director is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF CRESCO, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements

146.01 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 its own premises and used exclusively to house said entity's own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that 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 that 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.

146.03 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 that 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 147

WATER WELL PROTECTION

147.01 Shallow Public Wells
147.02 Deep Public Wells
147.03 Applicability
147.04 Wells Classified
147.05 Existing Nonconforming Uses

147.01 SHALLOW PUBLIC WELLS. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth after each structure or facility from a shallow public well within the City.

1. Well house floor drains – 5 feet;
2. Water treatment plant wastes – 50 feet;
3. Sanitary and industrial discharges – 200 feet;
4. Floor drains from pump house to surface:
   - A. None within 5 feet;
   - B. 5 to 10 feet – water main materials enclosed in concrete permitted;
   - C. 10 to 25 feet – must be water main material;
   - D. 25 to 75 feet – must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
   - A. None permitted within 25 feet;
   - B. 25 to 75 feet – must be water main material;
   - C. 75 to 200 feet – must be watertight sewer pipe;
6. Force mains:
   - A. None permitted within 75 feet;
   - B. 75 to 200 feet – must be water main materials;
7. Land application of solid waste – 200 feet;
8. Irrigation of wastewater – 200 feet;
9. Concrete vaults and septic tanks – 200 feet;
10. Mechanical wastewater treatment plants – 200 feet;
11. Cesspools and earth pit privies – 200 feet;
12. Soil absorption fields – 200 feet;
13. Lagoons – 200 feet;
14. Chemicals:
    - A. Application to ground surface – 200 feet;
    - B. Above ground storage – 200 feet;

C. On or underground storage – 200 feet;

15. Animal pasturage – 50 feet;

16. Animal enclosure – 200 feet;

17. Animal wastes:

A. Land application of solids – 200 feet;

B. Land application of liquid or slurry – 200 feet;

C. Storage tank – 200 feet;

D. Solids stockpile – 200 feet;

E. Storage basin or lagoon – 200 feet;

18. Earthen silage storage trench or pit – 200 feet;

19. Basements, pits, sumps – 10 feet;

20. Flowing streams or other surface water bodies – 50 feet;

21. Cisterns – 100 feet;

22. Cemeteries – 200 feet;

23. Private wells – 200 feet;

24. Solid waste disposal sites – 200 feet.

147.02 DEEP PUBLIC WELLS. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from a deep public well within the City.

1. Well house floor drains – 5 feet;

2. Water treatment plant wastes – 50 feet;

3. Sanitary and industrial discharges – 200 feet;

4. Floor drains from pump house to surface:

A. None within 5 feet;

B. 5 to 10 feet – water main materials enclosed in concrete permitted;

C. 10 to 25 feet – must be water main material;

D. 25 to 75 feet – must be watertight sewer pipe;

5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:

A. None permitted within 25 feet;

B. 25 to 75 feet – must be water main material;

C. 75 to 200 feet – must be watertight sewer pipe;

6. Force mains:

A. None permitted within 75 feet;

B. 75 to 200 feet – must be water main materials;

7. Land application of solid waste – 100 feet;

8. Irrigation of wastewater – 100 feet;
9. Concrete vaults and septic tanks – 100 feet;
10. Mechanical wastewater treatment plants – 200 feet;
11. Cesspools and earth pit privies – 200 feet;
12. Soil absorption fields – 200 feet;
13. Lagoons – 200 feet;
14. Chemicals:
    A. Application to ground surface – 100 feet;
    B. Above ground storage – 100 feet;
    C. On or underground storage – 200 feet;
15. Animal pasturage – 50 feet;
16. Animal enclosure – 100 feet;
17. Animal wastes:
    A. Land application of solids – 100 feet;
    B. Land application of liquid or slurry – 100 feet;
    C. Storage tank – 100 feet;
    D. Solids stockpile – 200 feet;
    E. Storage basin or lagoon – 200 feet;
18. Earthen silage storage trench or pit – 100 feet;
19. Basements, pits, sumps – 10 feet;
20. Flowing streams or other surface water bodies – 50 feet;
21. Cisterns – 50 feet;
22. Cemeteries – 200 feet;
23. Private wells – 200 feet;
24. Solid waste disposal sites – 200 feet.

147.03 APPLICABILITY. Proscriptions as set forth in Sections 147.01 and 147.02 shall apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

147.04 WELLS CLASSIFIED. The Council shall designate each water well within the City as being a "shallow well" or "deep well" for the purposes of this chapter.

147.05 EXISTING NONCONFORMING USES. The use of structures or facilities existing at the time of enactment of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of such ordinance.

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CHAPTER 148

OUTDOOR WOODBURNER/BOILERS (OWBs)

148.01 Definitions
148.02 Requirements
148.03 Permits
148.04 Violations

148.01 DEFINITIONS. Outdoor Woodburner/Boilers (OWBs) are wood-fired water heaters that are located outdoors or are separated from the space being heated. OWBs are typically constructed of a large metal firebox (15 to 30 cubic feet) surrounded by a water jacket and housed within a small shed-like structure with a smokestack.

1. Exclusions: This ordinance is not meant to deter the use of legally operated fire pits for recreational use (see Section 105.05 City Code), barbeques, fryers, or grills.

148.02 REQUIREMENTS. An OWB may be installed and used in the City of Cresco only in accordance with the following provisions:

1. Only neatly stacked clean seasoned firewood can be used in an OWB. It is unlawful to use lighter fluid, gasoline, diesel fuel, or other petroleum products to start the fire.

2. An OWB shall not be used to burn any of the following materials: rubbish or garbage, including food waste, food wrappers, packaging, animal carcasses, paint or painted materials, furniture, shingles, construction or demolition debris or other household or business waste; oil or oil waste; asphalt or products containing asphalt; treated or painted wood including but not limited to plywood, composite wood products, or other wood products that are painted, varnished, or treated with preservatives; any plastic material including but not limited to nylon, PVC, foam, synthetic fabric, plastic film or plastic containers; rubber, including tires or any synthetic rubber like products; newspaper, corrugated cardboard, container board, office paper, or other paper products; leaves, brush, or other vegetative debris.

3. The OWB shall be located at least 200' (two hundred feet) from the nearest building which is not on the same property as the OWB. Existing installations before November 1, 2015 shall be grandfathered in regards to the 200 foot rule.

4. The OWB shall have a chimney that extends at least 18' (eighteen feet) above the ground surface.

148.03 PERMITS. The owner of the OWB shall obtain an annual permit from the public works director. The permit shall be obtained by October 1st of each calendar year. A late fee of $50.00 shall be applied to the permit if not obtained by October 1st.

148.04 VIOLATIONS. By signing the permit, the user of an OWB is agreeing to the regulations listed in Chapter 148 of the City of Cresco Code of Ordinances. If the user of an OWB is not found to be in compliance, the user may be cited with a civil citation and fined up to $750.00 for each incident.

(Ch. 148 – Ord. 457 – Nov. 15 Supp.)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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 3½ 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 PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition
151.02 Permits for Planting Trees in Boulevards
151.03 Tree Trimming
151.04 Regulations for Planting Trees in Boulevards
151.05 Removal of Boulevard Trees
151.06 Removal of Trees on Private Property
151.07 Abuse or Mutilation of Trees
151.08 Disease Control

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

1. "Boulevard" means the area given between the proposed or existing sidewalk and curb on a public street.

2. "Director of Public Works" means the Director of Public Works of the City or a duly appointed representative.

151.02 PERMITS FOR PLANTING TREES IN BOULEVARDS. A permit must be secured at the office of the Director of Public Works before planting any tree in any boulevard within the corporate limits of the City. Trees are to be purchased and planted by the property owner of the land abutting the boulevard, or by a person retained by the property owner. Varieties of trees approved are those trees of the hard wood variety, having good appearance, adaptability to the climate, being long lived and generally free from injurious insects and diseases. Following are listed the approved varieties:

Crabapple	Linden
Japanese Lilac	Elm (Disease Resistant)
Serviceberry	Cork
Oak (Red, White)	London Plane
Hackberry	Ironwood Hornbeam

(Ord. 473 – Jun. 18 Supp.)

151.03 TREE TRIMMING. All property owners shall trim boulevard trees to a ground clearance of eight (8) feet. The City or City's agent will perform trimming of boulevard trees as deemed necessary. Public utilities may do such trimming as necessary to protect their utilities.

151.04 REGULATIONS FOR PLANTING TREES IN BOULEVARDS.

1. Trees must be of an approved variety and of nursery stock with a straight trunk.

2. No trees shall be placed so as to cause a traffic hazard, in the opinion of the Director of Public Works.

3. Trees shall be planted at least twenty-five (25) feet apart.

4. Trees shall not be planted closer than 25 feet from future or existing curb returns at intersections.

5. Trees shall be planted at least five (5) feet from driveways, visible or identifiable underground utility or light poles.

6. Except where a special permit is obtained from the Director of Public Works, no tree shall be planted on any boulevard where the distance between the nearest edge of the sidewalk and curb is less than four (4) feet.

7. All trees shall be planted equidistant from the nearest edge of the proposed or existing sidewalk and curb, except when the Director of Public Works directs otherwise.

8. The Director of Public Works may assist in staking out the location of the tree planting.

9. Trees shall be planted at least ten (10) feet from fire hydrants.

151.05 REMOVAL OF BOULEVARD TREES.

1. The City will remove trees that are determined by the Director of Public Works to be diseased, dangerous or a public nuisance.

2. Ordinary removal by the City will leave the stump in the ground, cut off at about boulevard level, then ground to below the surface of the boulevard.

3. Removal of any boulevard tree is to be approved by the Director of Public Works before starting removal.

4. Upon approval to remove a nuisance tree from the boulevard, the property owner may hire a licensed tree surgeon to remove this tree if the property owner takes full responsibility for the hauling, chipping, stump removal, replacement of the tree, and replacement of the lawn. Any income from the sale of the tree would then go to the property owner instead of the City.

(Ord. 452 – Jul. 14 Supp.)

151.06 REMOVAL OF TREES ON PRIVATE PROPERTY.

1. A property owner may remove a tree that is on personal property as long as the property owner does the actual work. Otherwise, the property owner must hire a licensed tree surgeon to remove the tree. ***(Ord. 452 – Jul. 14 Supp.)***

151.07 ABUSE OR MUTILATION OF TREES. No person shall willfully damage, injure, mar, deface or destroy any tree on any boulevard in the City. ***(Ord. 452 – Jul. 14 Supp.)***

151.08 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance. ***(Ord. 452 – Jul. 14 Supp.)***

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CHAPTER 155

BUILDING PERMITS

155.01 Permit Required
155.02 Application
155.03 Fees
155.04 Amendments
155.05 Application Approved
155.06 Appeal
155.07 Condition of the Permit
155.08 Revocation
155.09 Permit Void
155.10 Penalty Fee

155.01 PERMIT REQUIRED. No building or other structure shall be erected or altered within the City without first receiving a building permit. This includes remodeling a building if the size of the structure is changed in any way, including the addition of a porch or deck.

155.02 APPLICATION. Application shall be made in writing, filed with the Public Works Director and contain the following information:

1. Name. The name and address of the applicant.

2. Location. The street address and full legal description of the property.

3. Proposed Work. The nature of work proposed to be done.

4. Use. The use for which the structure is or will be used.

5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations, and structural details, as the Public Works Director may require.

6. Plot Diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction. The diagram shall show lot lines, streets, and alleys, distances on all exposed sides from the lot line to the foundation plus the size of the building overhang, including raid gutter, and shall show the buildings on adjoining lots and the approximate distances from applicant's lot.

155.03 FEES. A fee for each building permit shall be paid to the Director of Public Works as set forth herein. The determination of value or valuation under any of the provisions of this chapter shall be made by the Director of Public Works. The valuation to be used in computing the permit fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent work or permanent equipment. The Director of Public Works will use as a guide to determine the valuation the latest "Building Valuation Data," and the "Regional Modifiers," as published by the International Conference of Building Officials, unless the applicant can show that the actual cost will be less.

(Code of Iowa, Sec. 103A.19[5])

BUILDING PERMIT FEES

ESTIMATED COST	FEE
$100.00 - $1,000.00	$ 20.00
$1,001.00 - $5,000.00	$ 25.00
$5,001.00 - $10,000.00	$ 35.00
$10,001.00 - $15,000.00	$ 45.00
$15,001.00 - $20,000.00	$ 55.00
$20,001.00 - $25,000.00	$ 65.00
$25,001.00 - $30,000.00	$ 75.00
$30,001.00 - $35,000.00	$ 85.00
$35,001.00 - $40,000.00	$ 95.00
$40,001.00 - $45,000.00	$ 110.00
$45,001.00 - $50,000.00	$ 120.00
$50,001.00 - $60,000.00	$ 135.00
$60,001.00 - $70,000.00	$ 150.00
$70,001.00 - $80,000.00	$ 165.00
$80,001.00 - $90,000.00	$ 180.00
$90,001.00 - $100,000.00	$ 200.00
$100,001.00 - $500,000.00	$ 350.00
$500,001.00 - $1,000,000.00	$ 550.00
Over $1,000,000.00	$ 750.00

155.04 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

155.05 APPLICATION APPROVED. The Director of Public Works shall examine applications for permits and shall, within a reasonable time, either approve or disapprove the application. If, after examination, the Director of Public Works finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the Director of Public Works shall instruct the Clerk to issue the building permit to the applicant.

155.06 APPEAL. If the Director of Public Works denies an application for permit, the reasons for such denial shall be stated and the applicant notified of such denial and of the right to appeal to the Board of Adjustment. The Board of Adjustment upon appeal may affirm, modify, or reverse the determination of the Director of Public Works; provided however, no application shall be approved and permit issued which would result in an abrogation of the intent and purpose of this chapter. The Board of Adjustment's decision may be appealed to the City Council.

155.07 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions has been

filed and approved; provided, this does not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

155.08 REVOCATION. The Director of Public Works may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

155.09 PERMIT VOID. In the event that construction covered by a permit is not initiated and under way within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect. Work shall be done by the date stated in the permit or the permit is void and a new permit must be applied for and secured including the payment of permit fees.

155.10 PENALTY FEE. Where work for which a permit is required by this chapter is started without obtaining a permit, the fees specified for such permit shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work, nor from any other penalties prescribed herein.

(Code of Iowa, Sec. 103A.19[5])

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CHAPTER 156

SIGNS AND AWNINGS

156.01 Definitions
156.02 Permit Required
156.03 Nonconforming Uses
156.04 Outdoor Advertising Signs and Billboards
156.05 Special Provisions
156.06 Movable Awnings
156.07 Wall Signs
156.08 Projecting Signs
156.09 Poster Boards and Ground Signs
156.10 Roof Signs
156.11 Illuminated Signs
156.12 Means of Egress
156.13 Inspection

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

1. "Area" means the display surface included within the framework of any sign, measured from the outside of the framework.

2. "Awning" means drop awnings attached to buildings by means of movable metal frames.

3. "Billboard" means any flat surface 20 square feet or less in area, erected on a framework or attached to posts, buildings or other structures, and used for the display of bills, posters, or other advertising matter, posted, tacked, or fastened thereto.

4. "Ground sign" means any sign the structure of which is erected upon or supported by the ground.

5. "Poster board" means any flat surface over 20 square feet in area, erected on a framework or attached to posts, buildings, or other structures and used for the display of bills, posters, or other advertising matter produced on paper sheets, cloth or other materials and posted, tacked, or fastened thereto.

6. "Projecting sign" means any sign fastened to, suspended from, or supported by a building or structure so as to project from said building or structure at an angle.

7. "Roof sign" means any sign placed on or above the roof of any building or structure.

8. "Sign" means any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised or outlines or attached in any manner.

9. "Street line" means the place where the public sidewalk begins and the private property line ends.

10. "Wall sign" means any sign with its face parallel to and projecting not more than 12 inches from the wall to which it is attached.

156.02 PERMIT REQUIRED. A permit shall be obtained from the City before erecting a projecting sign, roof sign, wall sign (excluding signs painted on walls), billboard, poster board, or ground sign which is over 20 square feet in area. The fee for such permit is $25.00.

156.03 NONCONFORMING USES. This chapter applies to all signs and awnings hereafter erected, relocated, or rebuilt. The lawful use of any sign or awning existing at the

time of the enactment of the ordinance codified in this chapter may be continued although such use does not conform with the provisions of this chapter.

156.04 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS. In all districts where permitted, billboards shall be set back at least the height of the sign from inside the right-of-way line of any street or highway; and when at the intersection of streets and/or highways, the setback of any outdoor advertising sign or billboard (not including traffic signs), shall not be less than the required front yard depth for a principal building in such district, from each street and/or highway. All outdoor advertising signs on State principal highways shall conform to the Iowa Department of Transportation Sign Regulations.

156.05 SPECIAL PROVISIONS.

1. In R Districts, real estate signs not exceeding six (6) square feet in area, advertising the sale, lease, or rental of buildings or land on which said signs are located, are permitted. Such signs shall be located at least the height of the sign from inside the lot line.

2. In R Districts, announcement signs or bulletin boards may be erected upon the premises of a charitable, religious, or public institution for its own use.

3. In R Districts, identification and home occupation signs shall not exceed two (2) square feet in area and shall be located at least the height of the sign from inside the lot line.

4. Boarding and lodging houses in an R District may have one advertising sign not exceeding six (6) square feet in area and shall be located at least the height of the sign from inside the lot line.

5. Signs for service clubs and semi-public institutions are permitted, provided that they are located within two (2) miles of the City's corporate limits. Such signs shall conform to the size limitations as provided by the Iowa Department of Transportation. These signs are for the purpose of displaying the emblem of the club or institution, and information on time and location of meetings.

6. In the A-1, C-1, and M-1 Districts:

A. Temporary signs advertising the sale or lease of the premises shall not exceed 32 square feet in area.

B. Trade, business or industry identification signs are permitted provided that:

(1) Signs are located at least the height of the sign from inside the lot line with a maximum height of 35 feet.

(2) No sign shall exceed 150 square feet in area.

7. In the C-2 District:

A. Temporary signs advertising the sale or lease of the premises shall not exceed 12 square feet in area.

B. Trade, business, or industry identification signs are permitted provided that:

(1) One freestanding sign per business not to exceed 25 feet in height and 50 square feet per face.

(2) Signs attached to a building shall not project above the top or ends of the building, or more than 4 feet from the wall of the building.

8. No projecting wall sign shall be attached to a wall of a building at a height less than 10 feet above the sidewalk or ground.

9. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.

10. Illumination of signs and bulletin boards shall be indirect, non-intermittent lighting, provided that time, temperature, weather informational signs, official warning, and regulatory signs shall be exempt from this limitation.

11. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed.

12. A building permit shall be required for all permanent signs prior to construction or installation.

156.06 MOVABLE AWNINGS. Movable awnings supported throughout on metal frames may extend over the sidewalk portion of a public street a distance not to exceed two-thirds of the width of the sidewalk space, provided that every such awning frame shall be not less than seven feet, six inches from the sidewalk immediately below and that any fringe attached to the awning is not less than seven feet from the sidewalk immediately below.

156.07 WALL SIGNS.

1. Signs placed against the exterior walls of buildings shall not extend more than one foot from the wall surface to which they are attached.

2. Wall signs attached parallel to the face of a building shall not exceed 50 square feet in area, for any 22 feet of frontage on the building, nor shall more than one of these signs be attached to each face of the building.

3. Wall signs shall not extend beyond the ends of the wall surface on which they are placed.

4. Wall signs shall be securely attached to structural members of buildings with metal brackets, expansion bolts, through bolts or lag screws.

156.08 PROJECTING SIGNS.

1. Signs fastened to, suspended from, or supported by a building or structure so as to project from said building or structure at an angle shall not extend more than four feet beyond the street line, provided that signs not exceeding two feet in height supported directly on marquees may extend to the permissible outer limits of the marquees.

2. Projecting signs shall not contain an exposed surface area on side exceeding 30 square feet.

3. Projecting signs shall have a clear space of not less than ten feet below all parts of the sign, provided that signs which extend two feet or less from the building and which contain three square feet or less of exposed surface area on one side may have a clear space of not less than eight feet below all parts of the sign. Projecting signs extending into the limits of an alley shall have a clear space of not less than 16 feet above the alley grade.

4. The distance between the parallel surfaces of a double faced sign shall not exceed one foot.

5. All projecting signs shall be securely supported by metal brackets attached to the walls of the building with through bolts, expansion bolts, or lag screws, and shall be firmly braced and held in place by means of soft iron or steel cables, provided with turn buckles for tightening when so required. Projecting signs that are permitted to extend above the parapet walls may be attached to brackets fastened to the roof by means of through bolts but shall not be attached to any part of a wall above the point of bearing of the roof joists or rafters. Turnbuckles and connections in rods and cables shall be provided with closed eyelets, welded or forged.

6. Swinging signs are not permitted.

7. Projecting signs shall be erected, constructed, and maintained in a safe and stable manner. They shall be able to support their own weight safely and in addition be able to resist safely a horizontal wind pressure of 30 pounds per square foot of exposed area. The unit stress values used in the design of supporting members shall be 50 percent of the allowable unit stress values generally used for such materials.

156.09 POSTER BOARDS AND GROUND SIGNS.

1. Poster boards or ground signs exceeding 20 square feet in area are prohibited in the following locations:

A. Over or on any street line or easement.

B. Within 500 feet of any railroad crossing, where the sign will interfere with or obstruct the view of persons approaching the railroad crossing.

C. Within 200 feet of any street intersection where the sign will interfere with or obstruct the view of persons approaching the street intersection.

D. In any location where the sign will interfere with the lighting of any street, alley or public place or interfere with any public utility service.

2. Poster board, the supporting structure of which rests upon the ground, or ground signs, shall not exceed 20 feet in height above the ground on which they rest.

3. An open space at least three feet high shall be maintained between the poster board or ground sign and the ground.

4. All poster boards and ground signs shall be constructed and supported to withstand a horizontal wind pressure of 30 pounds per square foot of surface. All structural parts, posts and braces shall be able to withstand all induced stresses using unit stress values of 50 percent of the allowable unit stress values commonly used for such materials.

156.10 ROOF SIGNS.

1. Signs that are placed above or supported on the top of a building or structure shall be constructed of incombustible materials; however, the moldings and cappings may be of wood.

2. Roof signs shall be set back not less than eight feet from the street line or building line and shall be not more than 16 feet in height above that part of the roof on which they rest.

3. Roof signs shall not be supported by wooden beams, wooden braces, or other combustible material.

4. Roof signs shall be so constructed and anchored that they will withstand a wind pressure of not less than 30 pounds per square foot of exposed surface.

156.11 ILLUMINATED SIGNS. Whenever any sign is illuminated by electricity or equipped in any way with electrical devices, these devices shall conform in all respects to the ordinances of the City.

156.12 MEANS OF EGRESS. Signs shall not be so placed as to obstruct or interfere with a required doorway, window, fire escape, passageway to a fire escape or other means of egress.

156.13 INSPECTION. The Council is authorized to have signs and awnings inspected, to notify owners of changes and repairs needed, and to order removal of signs or awnings not conforming to this chapter. The Council may revoke or cancel a permit if requirements of this chapter are not met.

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CHAPTER 157

AMATEUR RADIO EQUIPMENT

157.01 Governing Clause
157.02 Definitions
157.03 Permit Required
157.04 Grounding Requirements

157.01 GOVERNING CLAUSE. Poles, masts and towers for supporting antenna used in the operation of amateur radio stations and all equipment used in the operation of non-commercial radio stations licensed by the Federal Communications Commission shall comply with the regulations of this chapter.

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

1. "Antenna" means the arrangement of metal rods or pipe used in the sending and receiving of electromagnetic waves. Antenna means a beam, quad, vertical or concave reflector-type antenna.

2. "Support structure" means any pole, tower, mast or tripod utilized for the purpose of supporting an antenna for the purpose of transmission and reception of electromagnetic waves by Federally licensed amateur radio operators.

3. "Transmission equipment" means any equipment used to transmit an electromagnetic wave for use in the amateur radio service. All transmitters used on frequencies below 140,000 megahertz shall be equipped with a low pass filter. All transmitters shall be of good engineering design and be properly shielded and grounded.

157.03 PERMIT REQUIRED. It is unlawful for any person to install or construct any antenna support structure without first obtaining a building permit. Application for a building permit shall be made upon forms required by the City and shall have attached the following items:

1. A copy of the FCC license.

2. A location plan for the antenna support structure.

3. Details of footings.

All proposed permit applications shall place notification in a local newspaper in waiver of 500-foot notification ruling (with publication verification being provided to the City).

157.04 GROUNDING REQUIREMENTS.

1. All antenna support structures, whether ground- or roof-mounted, must be grounded with a minimum of one eight-foot-long copper plated road a minimum of 5/8-inch in diameter and a minimum of number 6 wire used for the conductor from the support structure to the ground rod.

2. Ground-mounted antenna support structures may be erected only in the rear or side yards. All support structures shall be installed according to manufacturers' recommended standards.

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CHAPTER 158

STORAGE OF FLAMMABLE LIQUIDS

158.01 Purpose **158.02 Bulk Storage Prohibited**

158.01 PURPOSE. The purpose of this chapter is to establish rules and regulations governing the storage of flammable liquids, liquefied petroleum gas or other flammable or combustible liquids stored in aboveground tanks within the City in order to protect the public health, safety, and welfare.

158.02 BULK STORAGE PROHIBITED. Bulk storage of flammable or combustible liquids in aboveground tanks or other containers, in excess of twenty-five (25) gallons is prohibited, except as hereinafter provided:

1. Aboveground tanks may be permitted in the M-1 zoning district, the A-1 zoning district, the C-1 zoning district or the C-2 zoning district, provided that the Fire Chief authorizes and the Council approves such placement. However, any bulk storage in the C-1 or C-2 zoning districts shall be limited to storage of liquid propane gas only, with a maximum tank size of 500 gallons, and used for resale to the public only. Any person or entity desiring to store flammable or combustible liquids in the M-1, A-1, C-1 or C-2 zoning districts in excess of 25 gallons shall first apply for a permit through the Fire Chief on a form to be provided by the Clerk. The Fire Chief shall have sixty (60) days to review the application and determine if a permit should be granted. Council approval for such placement is also required. A permit shall be granted by the City only if the aboveground storage tank or other container complies with all applicable local, State or Federal requirements and does not constitute an unacceptable risk to the public health, safety, and welfare, as determined by the City in its sole discretion. In addition, and subject to the restrictions for C-1 and C-2 zoning districts set forth above, tanks may contain no more than 660 gallons of gasoline or 1,100 gallons of diesel fuel, the combination of any tanks, gasoline and diesel, shall not exceed 2,600 gallons on any one property; and no fuel may be used for sale except as set forth above.

2. Temporary aboveground storage tanks used for construction projects may be allowed in any zoning district of the City, but before placement must first receive a permit from the Fire Chief. To obtain a permit, the applicant shall file an application in writing on a form furnished by the City for that purpose. Each such application shall identify the size of the tank required, the material composition of the tank, the reason the tank is needed, the length of time it will remain at the site, a description of the location at which the tank will be placed, and a map showing the distances from the tank to buildings and lot lines.

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CHAPTER 159

WIND ENERGY CONVERSION SYSTEMS

159.01 Purpose
159.02 Definitions
159.03 Commercial Wind Energy Conversion System
159.04 Special Accessory use
159.05 Public Notification
159.06 Regulations
159.07 Minimum System Design Standards
159.08 Application Process
159.09 Collection of Costs

159.01 PURPOSE. The purpose of this chapter is to allow safe, effective, and efficient use of small wind energy conversion systems; to identify locations in areas of the City which may be least adversely impacted by the visual, aesthetic, and safety implications of their location.

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

1. "Blade" means an element of a wind turbine which acts as a part of an airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

2. "Commercial wind energy conversion system" means a wind energy conversion system which is intended to produce electricity for sale to a rated regulated or non-regulated utility or for use off site.

3. "Height, total system" means the height above grade of the wind energy system, including the tower generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.

4. "Shadow flicker" means alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.

5. "Small wind energy conversion system" means a wind turbine, a tower, and associated control or conversion electronics, which is intended to reduce on-site consumption of utility power, is incidental and subordinated to a permitted use on the same parcel and has a rated capacity of up to one hundred (100) kilowatts. No roof-mounted wind energy conversion system shall be allowed.

159.03 COMMERCIAL WIND ENERGY CONVERSION SYSTEM. It is unlawful to erect or maintain a commercial wind energy conversion system within the City of Cresco.

159.04 SPECIAL ACCESSORY USE.

1. Special Use. A small wind energy conversion system may be allowed only as an accessory use to a permitted principal use and shall require approval of a special use permit from the Board of Adjustment prior to construction, installation, alteration, or location of such structure.

2. Permit Required. It is unlawful to construct, erect, install, or alter or located any small wind energy conversion system within the City of Cresco, unless a special use permit has been obtained from the Board of Adjustment. The permit may be revoked at any time the approved system does not comply with the regulations, and

rules established herein and any additional conditions imposed by the Board. The owner of the system shall also obtain all other permits or licenses required by Federal, State, and local agencies prior to construction of the system.

159.05 PUBLIC NOTIFICATION. Following receipt of the application for special use permit, the Board of Adjustment shall meet. Notice will be sent to the surrounding property owners within 1,000 feet of the property having the site plan considered. Notice shall be sent not less than seven (7) days and not more than twenty (20) days prior to the meeting at which the application is first considered. The notice shall contain the date, time and location of the meeting.

159.06 REGULATIONS.

1. Minimum Lot Size. No small wind energy conversion system shall be constructed on a lot smaller than three (3) acres.

2. Minimum Setback Requirements. All small wind energy conversion systems shall have a setback of 110% of the total system height from any property line.

3. Maximum Height. The maximum tower height for a small wind energy conversion system shall be 60 feet.

4. Number of Systems Allowed. No more than one small wind energy conversion system shall be allowed on any parcel.

5. Location.

A. A wind energy conversion system shall not be located in any required setback.

B. A wind energy conversion system shall be located entirely in the rear of the property.

C. No part of a wind energy conversion system shall be located within or over drainage, utility or other established easements, or on or over property lines.

D. A wind energy conversion system shall be in compliance with the guidelines of the Federal Aviation Administration (FAA) regulations.

E. No wind energy conversion system shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five feet.

F. All wind energy conversion systems shall be located a minimum of 1,000 feet from the nearest inhabited residential structure, school, hospital, or place of worship not on property owned or controlled by the owner/operator of the wind energy system. This setback can be reduced at the discretion of the Board of Adjustment based upon the shadow flicker model provided.

G. All wind energy conversion systems shall be located a minimum of 1,000 feet from the nearest wind energy conversion system located on another parcel.

H. No roof-mounted small wind energy conversion system shall be allowed.

159.07 MINIMUM SYSTEM DESIGN STANDARDS. The following standards are required of all small wind energy conversion systems and shall be deemed to be conditions of approval for every wind energy system.

1. Color. The wind energy conversion system shall be white or light gray in color. Other neutral colors may be allowed at the discretion of the Board of Adjustment. The surface of the structure shall be non-reflective.

2. Lighting. No lights shall be installed on the tower, unless required by the Federal Aviation Administration (FAA).

3. Signs. One sign, limited to four (4) square feet, shall be posted at or near the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner to call in case of emergency. Such sign shall be directly visible from any external fencing and/or landscaping. Brand names or advertising associated with any installation shall not be visible from any public right-of-way.

4. Clearance of Blade Above Ground. No portion of the wind energy conversion system shall extend within 20 feet of the ground. No blades may extend over parking areas, driveways or sidewalks.

5. Installation. Installation must be done by a qualified professional and according to manufacturer's recommendations.

6. Noise. A noise study must demonstrate that the wind energy conversion system shall not exceed 65 decibels (dBA) within 100 feet of the wind tower, except during short-term events such as severe wind storms or utility outages.

7. Use of Electricity Generated. A wind energy conversion system shall be used exclusively to supply electrical power for onsite consumption by the principal structure only. When a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the wind energy conversion system and not presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.

8. Automatic Over Speed Controls. All wind energy conversion systems shall be equipped with manual and automatic over speed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system.

9. Electromagnetic Interference. All blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

10. Interconnection. The wind energy conversion system, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board.

11. Wind Access Easements. The enactment of this section does not constitute the granting of an easement by the City. The owner shall provide covenants, easements, or similar documentation to assure sufficient wind to operate the wind energy conversion system unless adequate accessibility to the wind is provided by the site.

12. Shadow Flicker. A shadow flicker model must demonstrate that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of a residentially zoned parcel may be acceptable if the flicker does not exceed 30 hours per year, and the flicker will fall more than 100 feet from an existing residence; or the traffic volumes are less than 500 vehicles on the roadway.

A. Map and describe within a 1,000-foot radius of the proposed wind energy system the topography, existing residences, and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed.

B. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations.

C. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in sitting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.

13. Appearance. The owner of any wind energy conversion system shall maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system. The owner shall maintain the ground upon which the system is located in an orderly manner, such that it is free of debris, tall grass and weeds, and any structures remain quality in appearance.

14. Insurance. The owner of a wind energy conversion system shall maintain $1,000,000.00 liability insurance as a condition of obtaining a permit and shall file a copy of said insurance policy with the City. Upon granting of a permit, the owner shall assume full responsibility for any and all damages, claims, expenses, liabilities, judgments and costs of any kind, including reasonable attorney's fees related to or caused by the erection, location, use or removal of a facility, and shall agree to hold the City harmless, indemnify and defend it from all such liabilities incurred or judgments entered against it as a result of the erection, location, use or removal of the facility.

15. Removal. Any wind energy conversion system that remains non-functional or inoperative for a continuous period of 180 consecutive days shall be considered abandoned and shall constitute a public nuisance. Within the next 180 days, after notice from the City, the owner shall reactivate the tower or it shall be dismantled and removed at the owner's expense. Removal of the system includes the entire structure, including foundations, transmission equipment and fencing from the property.

A. Non-function or lack of operation may be proven by reports from the interconnected utility. The owner and successors shall make available to the City all reports to and from the users of energy from the wind energy system if requested.

B. If removal of tower and appurtenant facilities is required, the City Council shall notify the owner. If the City removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal. Further, the City may collect any remaining costs of removal from the owner of the wind energy conversion system or owner of the ground upon which it is located. The City Clerk shall send a statement of the total expense incurred to the property owner who has failed to abide by the notice. If the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

C. The Board of Adjustment can revoke a wind energy conversion system permit at any time if the requirements set forth in this chapter and/or any conditions imposed by the Board are not met.

16. Right of Entrance. By the acceptance of a permit, the owner grants permission to the City, to enter on the property to remove the tower and all fixtures pursuant to the terms of the permit and to assure compliance with the conditions set forth in the permit.

17. New Technologies. Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical, the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this chapter.

18. Engineer Certification. Application for wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the application regulations and certified by a licensed professional engineer shall also be submitted.

19. Utility Notification. A wind energy conversion system shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

20. Inspections. At least every 24 months, every tower shall be inspected by a qualified professional who is regularly involved in the maintenance, inspection and/or erection of wind energy conversion systems. At a minimum, this inspection shall be conducted in accordance with the inspection checklist provided in the Electronics Industries Association (EIA) Standard 222, *Structural Standards for Steel Antenna Towers and Antenna Support Structures*. A copy of the inspection record shall be provided to the City.

21. Ice Shedding. Wind energy conversion system owners shall ensure that ice from the rotor blades does not impact any off-site properties.

22. Climbing Apparatus. All climbing apparatuses must be located twelve (12) feet from the ground and the tower must be designed to prevent climbing within the first 12 feet.

23. Fencing. All wind energy conversion systems and associate guy wire anchor points shall be enclosed by a six-foot-high opaque fence with smooth side to the outside, no more than one-inch gaps, and a securely locked gate to limit uncontrolled access and reduce safety hazards.

159.08 APPLICATION PROCESS. All applicants who wish to locate a wind energy conversion system must submit to the City's Board of Adjustment, on the forms provided by the City, a plan including the following information:

1. Complete property dimensions.

2. Location and full dimensions of all buildings existing on the property where the system is to be located, including exterior dimensions, height of buildings, and all uses on the property.

3. Location and dimensions of any natural or manmade features within 1,000 feet of the property, such as trees, ridges, highways, street, bridges and underpasses.

4. Location of all easements upon the property where the system is to be located.

5. Proposed location of tower, including height and setbacks from property lines.

6. Drawings, to scale, of the structure, including the tower, base, booting, and guy-wires, if any, and electrical components. The drawings and any necessary calculations shall be certified by a licensed engineer.

7. Certification from a licensed engineer or qualified professional that the rotor and over speed controls have been designed for the proposed use on the proposed site.

8. Evidence that the proposed wind energy conversion system model has an operational history of at least one year.

9. Evidence that the applicant has notified the utility that the customer intends to install an interconnected customer-owned generator, and that the generator meets the minimum requirements established by the utility and the Iowa Utilities Board. Off grid systems are exempt from this requirement.

10. Evidence that the wind energy conversion system does not violate any covenants of record.

11. Evidence from a qualified professional that the site is feasible for a wind energy conversion system, or that covenants, easements, and other assurance to document sufficient wind to operate the wind energy conversion system have been obtained.

12. Evidence that the proposed wind energy conversion system will comply with applicable Federal aviation regulations, including any necessary approvals from the Federal Aviation Administration (FAA).

13. Evidence that the applicant can obtain and maintain adequate liability insurance for the facility.

14. A noise study.

15. A shadow flicker model.

16. Any other evidence or information as required by the Board of Adjustment.

159.09 COLLECTION OF COSTS.

1. A fee of $250.00 shall be submitted with the application.

2. Any additional costs incurred by the City regarding review of plan submitted with a permit application will be paid in full by the applicant.

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CHAPTER 160

DEMOLITION PERMIT

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160.02 Permit Application
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160.01 PERMIT REQUIRED. No person shall remove or demolish any building or structure in the City that exceeds 400 square feet, or cause the same to be done, without first obtaining a demolition permit for each such building or structure from the City.

160.02 PERMIT APPLICATION. To obtain a demolition permit, the applicant shall first file an application in writing on a form furnished by the City for that purpose. Each such application shall:

1. List the name and address of the property owner;

2. Include the name and business address of the person that is to do the work;

3. Provide a description of the location at which the proposed demolition will occur;

4. Identify and describe the work to be covered by the permit;

5. List the date of commencement of the work and estimated completion date;

6. Give any other information as reasonably may be required by the Public Works Director.

160.03 COMPLETION SCHEDULES.

One-story structure < 2,000 square feet – 2 weeks
Two-story structure > 2,000 square feet – 30 days

These schedules may be extended by the Council. The property owner must present a letter to the Council requesting, due to necessity, an extension of time to allow for the completion of the demolition.

160.04 MINIMUM DEMOLITION STANDARDS. At a minimum, demolition projects must comply with the following:

1. Basements. Foundation of structure must be collapsed/removed to a depth of four (4) feet from the surface elevation prior to backfilling.

2. Drainage. Basement drainage must be provided.

3. Backfill Materials. Shall consist of a granular fill material installed to a level even with the property elevation.

160.05 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. No demolition work may commence until the required pedestrian protection structures are in place and they shall be maintained in place and kept in good order for the entire length of time pedestrians may be endangered.

160.06 INSURANCE REQUIRED FOR CONTRACTORS. In the event the application for the demolition permit names a contractor being responsible for the demolition of the house, building, or structure, then prior to the demolition, the contractor shall file a certificate of insurance showing that the contractor has in force during the demolition, public liability insurance covering the applicant and all agents and employees of the contractor for the minimum amounts:

1. Bodily Injury – $500,000.00 per person; $500,000.00 per occurrence with $500,000.00 aggregate per policy period.

2. Property Damage – $500,000.00 per accident per occurrence.

160.07 PERFORMANCE AND PAYMENT BOND REQUIRED. The applicant shall also post with the City a performance and payment bond in the minimum amount of $5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the applicant's payment for any damage done to the City or to public property.

160.08 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

160.09 INSPECTION. All work shall be subject to inspection by the City.

160.10 COMPLETION BY THE CITY. Should any demolition project be discontinued or left unfinished for a period of two weeks after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the demolition work and charge any expenses therefor to the permit holder/property owner.

160.11 RESPONSIBILITY FOR COSTS. All costs and expenses incident to the demolition 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 demolition.

160.12 PERMIT FEE. A permit fee of twenty-five dollars ($25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each demolition.

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CHAPTER 165

ZONING REGULATIONS

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165.01 DEFINITIONS. For the purpose of this chapter, the words "used or occupied" include the words "intended, designed, or arranged to be used or occupied;" the word "lot" includes the words "plot or parcel" and all other words or phrases used to denote an individual building site that complies with the minimum provisions of this chapter. The following terms or words shall be interpreted as follows:

1. "Accessory living quarters" means living quarters within an accessory building for the sole use of persons fully employed on the premises or for temporary use by guests of the occupants of the premises.

2. "Accessory use or structure" means a use or structure subordinate to the principal use of a building on the lot and serving customarily incidental to the use of the principal building.

3. "Agriculture" means the use of land for agricultural purposes, including animal husbandry, apiculture, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, and the necessary accessory uses

for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agriculture activities.

4. "Alley" means a public way, other than a street, 26 feet or less in width, affording a secondary means of access to an abutting property. An alley shall not be considered a public thoroughfare.

5. "Amendment" means a change in the wording, context, or substance of this chapter, or a change in the zoning or district boundaries of the "Official Zoning Map," a part of this chapter, when adopted by ordinance passed by the proper authoritative body in the manner prescribed by law.

6. "Apartment house or building" (See "dwelling, multiple.")

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 five (5) or more vehicles that, for a period exceeding 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 re-use, salvage, or sale, shall constitute prima facie evidence of an automobile wrecking yard.

8. "Basement" means a story having more than one-half of its height below grade. A basement shall not be counted as a story for the purpose of height regulation, providing the finished floor level directly above is not more than six (6) feet above grade. (See "basement, walkout," "cellar," and "story.")

9. "Basement, walkout" means a basement having a portion of its finished floor not more than four (4) feet below the finished yard grade at any of its exterior walls and having not less than two-thirds of the vertical height of an exterior wall, which has a ground level exit to the outside, above ground. A walkout basement shall be considered the ground floor level of the building and shall be counted as a story. (See "basement," "cellar," and "story.")

10. "Block" means all that property frontage along one public thoroughfare lying between the two nearest intersecting or intercepting streets, railroad right-of-way, waterway, golf course, campus, park or other similar open space.

11. "Board" means the Board of Adjustment.

12. "Boarding house" means a building other than a hotel where, for compensation, meals and lodging are provided for four (4) or more persons, not members of the family there residing, but does not include rest homes.

13. "Boundary of district" means the centerline of a street or right-of-way or the centerline of the alleyway, between the rear or side property lines or where no alley or passageway exists, the rear or side property lines of all lots bordering on any district limits or any district boundary shown on the maps adopted by this chapter.

14. "Building" means any structure having a roof supported by walls or by columns intended for enclosure, shelter, or housing of persons, animals, or chattel. When any portion thereof is entirely separated by walls in which there are no communicating doors or windows or any similar openings, each portion so separated shall be deemed a separate building.

15. "Building, height of" means the vertical distance from the average finished ground 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 ridge (peak) for gable, hip and gambrel roofs.

16. "Building line" means the extreme overall dimensions of a building, which includes all areas covered by the vertical projection to the ground of the overhang (or any part of a primary structural support or component) which is nearest to the property line. (See "setback.")

17. "Building site" means the ground area of one lot or the ground area of two or more lots that have been combined for the use of one building or permitted group of buildings, together with all yard requirements required by this chapter. (See "lot.")

18. "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 12,000 gallons.

19. "Business" (See "place of business.")

20. "Cellar" means a story having not more than one-half of its height below grade, which is inaccessible to the outside except by stairway, and in which the air vents on ventilation widows are not more than 18 inches in height and four (4) square feet in area each.

21. "Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematory, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

22. "Centerline, public thoroughfare" means a line running parallel with the thoroughfare right-of-way, which is half the distance between the extreme edges of the official right-of-way width.

23. "Certified survey" means a sketch, plan, map, or other exhibit bearing a written statement of its accuracy of conformity to specified standards, which is signed and sealed by a registered surveyor.

24. "Church" means any building or site whose primary use is public, religious worship.

25. "Club" means an association of persons for some common non-profit purpose, but not including groups organized primarily to render service which is customarily carried on as a business.

26. "Cocktail lounge" or "cabaret" means any place of business, other than a "night club," located in and accessory to a hotel, motel, or restaurant, where liquor, beer, or wine is sold for consumption on the premises, and where music or other entertainment is limited to a piano bar or other one-person performance and dancing is prohibited. (See also "tavern," "night club.")

27. "Commercial use" means the barter, exchange, sale, service, or trade of goods, materials, or services, either tangible or intangible for financial, material, or monetary gain.

28. "Commission" means the Planning and Zoning Commission of the City of Cresco, Iowa.

29. "Conditional permit" means a permit issued in view of specified conditions, limitations, or restrictions, and which is subject to review or cancellation by the issuing department.

30. "Court" means an open, unoccupied, unobstructed space, except for trees, shrubs, statuary, or other articles normally considered accessory to landscaping, and which is bounded on two (2) or more sides by a building on the same lot.

31. "Crown of road" means the grade at the centerline of the pavement within a public thoroughfare, of where no pavement exists, grade at the right-of-way centerline.

32. "District" means a section or sections of land areas, depicted on the Official Zoning Map, within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

33. "Dog kennel" means the keeping of any dog or dogs, regardless of number, for sale, breeding, boarding or treatment purposes, except in a dog hospital, dog beauty parlor, or pet shop, as permitted by law, or the keeping of five (5) or more dogs, six (6) months or older, on premises used for residential purposes, or the keeping of more than one dog on vacant property or on property used for business or commercial purposes.

34. "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 trailer coach.

35. "Dwelling unit" means one or more rooms in a dwelling, multiple-dwelling, or apartment hotel used for occupancy by one family as a home or residence for living or sleeping purposes and in which the cooking and sanitary facilities are designed for the use of one family only.

36. "Dwelling, one-family" means a detached building, on a building site, designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

37. "Dwelling, two-family" means a building designed for and used exclusively for occupancy by two (2) families living independently of each other and containing two (2) dwelling units.

38. "Dwelling, multiple" means a building or buildings on a common lot designed for and used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

39. "Family" means an individual, or two (2) or more persons related to one another by blood, marriage, or legal adoption, including foster children, and not more than two (2) roomers; or in the alternative, not more than three (3) unrelated persons.

40. "Farm" means an area comprising ten (10) acres or more which is used for agriculture.

41. "Feed lot, commercial" means the feeding or raising of livestock, poultry, or other animals in confined feedlots, dry lots, pens, cages, or buildings as a commercial enterprise not in conjunction with a farming operation.

42. "Fence" means any hedge, structure, wall, landscape feature, partition, growth, barrier or similar construction created or placed for the purpose of defining or

delineating a piece or parcel of land or to delineate, divide, separate or divide two contiguous estates or parcels, or to enclose a piece or parcel of land.

43. "Filling station" (See "gas station.")

44. "Frontage" means the distance of a front lot line as measured along the public thoroughfare. (See "lot lines, front.")

45. "Garage, community" means a structure, or series of structures under one roof, and under one ownership, used primarily for storage of vehicles by three (3) or more owners or occupants of property in the vicinity.

46. "Garage, mechanical" means a structure in which major mechanical repair or rebuilding of motor powered vehicles is performed for commercial gain and in which the storage, care and minor servicing is an accessory use.

47. "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 main building. A private garage, of less than three-car capacity, may be rented for the private vehicles of persons not residents on the premises.

48. "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, washing, etc., is an accessory use.

49. "Gas station" means a structure designed or used for the retail sale or supply of fuels, lubricants, air, water 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, repair, refinishing, body work or other major servicing of motor vehicles.

50. "Greenhouse" means a building or accessory structure constructed chiefly of glass or other translucent material, which is devoted to the protection or cultivation of flowers or other tender plants.

51. "Half-story" means a story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor area of the floor immediately below it.

52. "Height of building" (See "building height.")

53. "Home occupation" means any occupation or profession conducted solely by resident occupants residing on the premises, involving primarily service and not the sale of commodities upon the premises; provided further, not more than one floor level of the building may be used in pursuit of the occupation, and in connection therewith there is used no sign other than one name plate affixed to the outer wall, of not more than one square foot in area, which will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling. Not more than one person other than the occupants of the building may be employed.

54. "Hospital" means an institution specializing in giving clinical, temporary, and emergency service of a medical or surgical nature to injured persons and patients, other than persons suffering from a lingering mental sickness, disease, disorder, or ailment.

55. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged, with or without meals, and in which there are six (6) or more sleeping rooms or suites of rooms with no provisions made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.

56. "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 materials, 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. (See also "Trash.")

57. "Kennel" (See "dog kennel.")

58. "Kitchen" means any room or portion of a building used, intended or designed to be used for cooking and other preparation of food, including any room having a sink and provisions for a stove.

59. "Loading space" means any off-street space or birth on the same lot with a building or contiguous to a group of buildings, for the temporary parking (less than 24 hours) of a commercial vehicle while loading or unloading merchandise or materials.

60. "Lodging house" means a building or portion thereof, other than a hotel or motel where lodging, only, is provided for compensation for four (4) or more persons.

61. "Lot" means for zoning purposes, as covered by this chapter, a parcel of real property 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 a dedicated street, and may consist of any one of the following:

A. 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;

B. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirement of this chapter;

C. A portion of lot of record;

D. Single lot of record.

62. "Lot lines":

A. "Front" means the line separating the front of the lot from the street. In the case of a corner lot, that part of the lot having the narrowest frontage on any street, shall be considered the front lot line.

B. "Rear" means that boundary line which is opposite and most distant from the front line.

C. "Side" means any lot boundary line not a front line or a rear lot line.

63. "Lot measurements":

A. "Area" means the gross area, exclusive of streets or other public right-of-ways, within the boundary lines of a lot.

B. "Depth" means the mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints of the front and rear lot lines.

C. "Width" means the horizontal distance between the side lot lines as measured perpendicular to the line compromising the lot depth at its point of intersection with the required minimum front setback. Where the lot width is decreasing from front to rear, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the required minimum rear setback.

64. "Lot of record" means a lot that is part of a subdivision, the deed or plat of which is recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

65. "Lot types":

A. "Corner lot" means a lot located at the intersection of two or more streets, and having the street right-of-way abut the front and one or more side lines of the lot.

B. "Double frontage lot" means a lot other than a corner lot with frontage on more than one street or public thoroughfare which do not intersect.

C. "Interior lot" means a lot, other than a corner lot, having frontage on one street or public thoroughfare.

D. "Key lot" means a lot so subdivided as to have its side lines coincide with the rear lot lines of adjacent lots on either or both sides of the aforesaid key lots.

E. "Reversed frontage lot" means a corner lot, the side street line of which is substantially a continuation of the front line of the first interior lot to its rear.

66. "Mental institution, hospital, or home" means an institution specializing in giving clinical and psychiatric aid and treatment to and in conjunction with the housing of persons and patients suffering from a temporary or lingering mental ailment.

67. "Mobile home" means any trailer which is used as a dwelling unit excluding however transient trailers. (See "trailer.")

68. "Mobile home park" means any lot or portion of a lot upon which two 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.

69. "Motel or motor hotel" means a building or group of two or more buildings designed to provide sleeping accommodations for transient or overnight guests, with garage attached or parking facilities conveniently located to each such unit.

70. "Night club" means any place of business located within any building or establishment, established, and operated for the purpose of supplying entertainment or music, or both, and providing meals and refreshments prepared on the premises, having a seating capacity of not less than 40 people at tables; providing a dance floor

containing not less than 308 square feet; and serving beer, wine or liquor for consumption on the premises.

71. "Nonconforming use" means the use of a building or of land or any portion thereof, which was lawfully established and maintained but which, because of the application of this chapter to it, no longer conforms to the use regulations of the zone in which it is located.

72. "Nonprofit institution" means a nonprofit institution maintained and operated by a society, corporation, individual, foundation or public agency for the purposes 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.

73. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane or other mental cases, inebriate or contagious cases.

74. "Parking area, public" means an open area, other than a street or alley, which is used for the temporary parking of more than four (4) automobiles and is available for public use whether free, for compensation, or as an accommodation for clients or customers.

75. "Parking space, automobile" means an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than 10 feet by 20 feet, plus such additional area as is necessary to afford adequate ingress-egress. Where four (4) or more automobile parking spaces are to be grouped as a common facility meeting a requirement of this chapter, the individual car spaces, plus the area necessary for driveways, shall total not less than 315 square feet per car space.

76. "Place of business" means any vehicle, building, structure, yard, area, lot, premises, or part thereof, or any other place in or on which one or more persons engage in a gainful occupation.

77. "Premises" means any lot, plot, parcel or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling, or meeting place.

78. "Principal building" means the building situated or to be placed nearest the front property line and the use of which conforms to the primary use permitted by the zoning classification in which it is located.

79. "Public thoroughfare" means any right-of-way under the jurisdiction and maintenance of the governmental agencies of the Federal, State and Municipal government; which may be used by the public in general; and which serves as the frontage street to the abutting property. (See "street.")

80. "Residential" or "residence" means any lot, plot, parcel, tract, area, or piece of land or any building used exclusively for family dwelling purposes or intended to be so used, including concomitant uses specified herein.

81. "Restaurant" means a building, room or rooms, not operated as a dining room in connection with a hotel, motel, or other multiple dwelling, where food is prepared

and served to a group of families, a club, or to the public and for consumption on the premises.

82. "Rest homes" means a home operated as a boarding home, and in which nursing, dietary and other personal services are furnished to convalescents, invalids, and aged persons; but in which no persons suffering from a mental sickness, disease, disorder, or ailment or from a contagious or communicable disease are kept, and in which no surgical or other primary treatments such as are customarily provided in sanitariums or hospitals are performed.

83. "Resubdivision" means any change in the shape or size of any lot, tract or parcel of land previously platted for the purpose, whether immediate or future of sale, rent, lease, building development, anchorages or other use. Any change in the shape or size of any lot, tract, or parcel of land previously approved for building purposes whether immediate or future regardless whether or not the same is vacant or improved in whole or in part, for sale, rent, lease, building development, anchorage or other use.

84. "Rooming house" means a residential building used, or intended to be used, as a place where sleeping accommodations are furnished or provided for pay, but which does not maintain a public dining room or cafe in the same building, or in any building in connection therewith.

85. "Sanitarium" means a health station or retreat or other place where resident patients are kept, and where medical or surgical treatment is given to persons suffering from a sickness, disease, disorder or ailment other than a mental sickness, disease, disorder or ailment, but does not specialize in giving clinical, temporary, or emergency service.

86. "Section" means a section of this chapter unless some other ordinance, code, or statute is indicated.

87. "Service station" (See "gas station.")

88. "Setback" means the minimum horizontal distance between the front, rear, or side lines of the lot and the front, rear or side lines of the building respectively. When two or more lots under one ownership are used, the exterior property line of the lots so grouped shall be used in determining setbacks.

89. "Site" (See "lot.")

90. "Special permit" means the authorization of a zoning certificate for an unclassified or special use of a lot by the Board of Adjustment following a review of the application for use by the Commission. A special permit may be issued only for those uses listed under the "Unclassified and Special Uses" of this chapter.

91. "Stables":

A. "Private" means a building or structure used, or intended to be used for housing horses belonging to the owner of the property and for non-commercial purposes.

B. "Public and riding academy" means a building or structure used or intended to be used, for the housing only of horses on a fee basis. Riding instructions may be given in connection with a public stable or riding academy.

C. "Riding club" means a building or structure used or intended to be used for the housing only of horses by a group of persons for non-commercial purposes.

92. "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 next above it shall be considered a story. If the finished floor level directly above the basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

93. "Story, half" (See "half-story.")

94. "Street" means a public thoroughfare that affords the principal means of access to the abutting property. (See "public thoroughfare.")

95. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street. (See "lot line, front.")

96. "Structural alterations" means any replacement or change in the shape or size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joist, or roof trusses, beyond ordinary repairs and maintenance.

97. "Structure" means anything constructed or erected with a rigid or fixed location on the ground, or attachment to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks, etc.

98. "Subdivision" means a division of a lot, tract or parcel of land into three (3) or more lots, plats, sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, rent, lease, building development, right-of-way dedication, or other use.

99. "Tavern" means any place devoted primarily to the selling, serving or dispensing and drinking of malt, vinous, or other alcoholic beverages or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, and where such beverages are consumed on the premises. (See also "cocktail lounge" and "night club.")

100. "Tent" means any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, or any light material, either attached to a building or structure or unattached.

101. "Tourist cottage" means a single-family dwelling used as one of the units of a tourist park.

102. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers, said building located either singularly or as a part of a tourist park.

103. "Tourist park" means any lot or plot of real property upon which three or more single-family camp cottages, or two or more trailers, or any combination of tourist cottages or tourist home or trailers, are located and maintained for the accommodation of transients, whether a charge is or is not made.

104. "Trailer" means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, or skirtings, and which is, has been, or reasonably may be, equipped with wheels or other devices

for transporting the structure from place to place, whether by motive power or other means. The term "trailer" includes camp car and house car.

105. "Trailer camp" (See "tourist park.")

106. "Trailer park" (See "mobile home park.")

107. "Travel trailer" means any vehicular, portable structure built on a chassis, designed as a temporary dwelling not exceeding 8 feet in width and not exceeding 40 feet in length, exclusive of separate towing unit. The term "travel trailer" shall include pickup coach, motor home, camp trailer, or other similar mobile and temporary dwellings commonly used for travel, recreation or vacation quarters.

108. "Travel trailer park" means a parcel of land upon which two or more spaces are provided, occupied or intended for occupancy by travel trailers for transient purposes, not to exceed 30 days.

109. "Trash" means cuttings from vegetation, refuse, paper, bottles, rags. (Also, see "junk.")

110. "Variance" means a modification of the specific regulations of this chapter granted by resolution of the Board of Adjustment in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone.

111. "Yard" means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except for landscaping or as otherwise provided in this chapter.

112. "Yard, front" means the yard area lying to the front of the principal building or between the front building line and the front lot line.

113. "Yard, rear" means the yard area lying to the rear of the principal building, or between the rear building line and the rear lot line.

114. "Yard, side" means the yard area lying to the sides of the principal building or between the side building lines and the side lot lines.

115. "Zone" means any one of the classes of districts established by this chapter.

116. "Zoning Administrator" means the administrative officer designated or appointed by the City to administer and enforce the regulations contained in this chapter.

117. "Zoning certificate" means written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

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GENERAL REGULATIONS

165.02 DISTRICTS. In order to classify, regulate, and restrict the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered; to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City is hereby divided into nine (9) classes of districts. The use, height, and area regulations are uniform in each class of district, and said districts shall be known as:

A-1 Agricultural District

R-1 Single-Family Residential District

R-2 Light Density Residential District

R-3 Medium Density Residential District

R-4 Mobile Home Park District

C-1 Commercial District

C-2 Central Business Commercial District

M-1 Light Industrial District

H Medical District

165.03 BOUNDARIES. The boundaries of these districts are indicated upon the Official Zoning Map of the City, which map is made a part of this chapter by reference. The said Official Zoning Map and all notations, references and other matters shown thereon shall be as if the notations, references and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be filed in the Office of the City Clerk in the City Hall and shall be identified by the signature of the Mayor, attested by the City Clerk under the following words: *This is to certify that this is the Official Zoning Map referred to in the Code of Ordinances of the City of Cresco, Iowa.* The district boundaries are either lot lines or the centerlines of streets and alleys, unless otherwise shown, and where the districts designated are bounded approximately by street, alley, or lot lines and are not dimensioned otherwise, the lot lines or the center lines of streets and alleys shall be construed to be the boundary of the district.

165.04 CONFORMANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by his chapter for the district in which the building or land is located.

165.05 CONTINUING EXISTING USES. The lawful use of a building existing at the time of the enactment of this chapter may be continued even though such use may not conform with the regulations of this chapter for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized, “nonconforming use” under previous Zoning Ordinances, shall not be authorized to continue as a nonconforming use pursuant to this chapter, or amendments thereto.

165.06 NONCONFORMING USES IN ANY R DISTRICT. Within the residential districts established by this zoning ordinance there exist lots, structures, uses of land and

structures, and characteristics of use which were lawful before these zoning regulations became effective or were amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this section to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded, extended, constructed, or reconstructed, or used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as follows:

1. Substitution. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

2. Discontinuance. In the event that a nonconforming use of any building, structure or land is discontinued for a period of two years, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no building or structure is erected or constructed which does not conform to the provisions of this chapter and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this chapter, shall be discontinued within one year from the date of the change.

3. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 60 percent of its then fair market value, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if less than 60 percent damaged above the foundation, it may be restored, reconstructed or used as before provided that it be done within six (6) months of such happening.

165.07 NONCONFORMING USES IN ANY DISTRICT OTHER THAN AN R DISTRICT.

1. Structural Alterations and Enlargements. Any building or structure in any district other than an R District devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, the lot frontage, yard and height requirements of the district in which situated, provided such enlargement or alteration of 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 ordinance codified by this chapter. In the event of such structural alterations or enlargement of buildings, the premises involved may not be used for any nonconforming use other than the use existing on the effective date of the ordinance codified by this chapter, other provisions of this chapter notwithstanding.

2. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued for a period of more than two years, the use of the same shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no building or structure is erected or constructed which does not conform to the provisions of this chapter, and the use of land upon which no building is erected or constructed, which becomes nonconforming by reason of a subsequent change in this chapter, shall be discontinued within two years from the date of the change.

3. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than 70 percent of its then fair market value, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if less than 70 percent damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be done within six (6) months of such happening.

165.08 STREET FRONTAGE REQUIRED. Lots containing any building used in whole or in part for residence purposes shall abut for at least 40 feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least 50 feet wide shall be provided for two or more such single-family or for one or more two-family or multiple dwellings.

165.09 ACCESSORY BUILDINGS AND GARAGES. No accessory building or structure which exceeds six (6) feet in height shall be erected in a required yard or court, except as provided hereinafter.

1. An accessory building or structure that is located entirely within the principal building area of the lot (the lot minus the required yards and courts) whether attached or detached to the principal building.

2. The garage for any principal building may be erected; provided, however, such garage building shall comply with the following requirements:

A. The garage shall set back no less than seven feet from the rear lot line or shall be located no closer than 30 feet to any garage or principal building which is located on the opposite side of the alley, whichever is the greater requirement.

B. An attached garage building shall be considered an extension of the principal building and shall comply with all minimum yard requirements for the principal building other than the exception above permitting the garage to be located within seven feet of an alley or rear property line.

C. The garage building shall not exceed one story or 18 feet in height.

3. An accessory structure that is adaptable to underground construction (such as a bomb or tornado shelter, garage, wine cellar, etc.) may be constructed beneath the ground surface of any yard area, provided that said structure shall comply with the following requirements:

A. No portion of the structure shall be located less than seven feet, measured horizontally, from any lot line from which a minimum surface yard area is required.

B. The surface area covering the structure shall be finished in a manner natural to the landscape so as to entirely conceal the underground structure.

C. No portion of the grade of the finished surface area above the structure may exceed a two-foot height increase above the normal finished grade of any required yard.

4. Accessory buildings and structures. This section shall not be interpreted to prohibit the construction of two-car garages.

5. Storage sheds shall not exceed 150 square feet, shall be located no less than seven feet measured horizontally from any lot line, and shall require a building permit.

6. Structures, such as solar energy conductors, shall be located only in the rear yards within seven feet of any side or rear property lines.

7. No accessory building or garage shall be constructed on any lot, regardless of the size of the lot or the zone in which it is located, without a variance, unless it is accessory to a primary dwelling or residence. An accessory building or garage shall be finished, sided or painted to match the primary dwelling or residence, and shall be constructed so as to be aesthetically consistent, both in composition, design, color and materials, with the neighborhood or district within which it is located.

165.10 CORNER LOTS. For corner lots, platted after the effective date of the ordinance codified by this chapter, the street side yard shall be equal in width to the minimum required side yard for the district in which it is located, plus 20 feet; i.e., for a minimum required side yard of 10 feet, the street side yard shall be not less than 30 feet; provided, however, this regulation shall not be interpreted as to require a side street yard of greater width than the minimum required front yard width. For corner lots, platted after the effective date of the ordinance codified by this chapter, the minimum required lot width shall be increased by an amount not less than 20 feet so as to allow for the additional required street side yard, i.e., for a minimum required lot width of 60 feet, the minimum width of a corner lot shall be not less than 80 feet. On corner lots platted and of record at the time of the effective date of the ordinance codified by this chapter, the same regulations shall apply except that this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of the effective date of the ordinance codified by this chapter, to less than 28 feet or to prohibit the erection of an accessory building. However, garages and addition to homes may be erected on corner lots if they are erected no closer to the intersecting street than the buildings that already exist on the lot. (See definition of "lot lines" in Section 165.01 of this chapter.) On any corner lot, the depth of a front yard or side street yard abutting a "major street" shall be measured from the proposed right-of-way lines shown on the Official Major Street Plan.

165.11 FRONT YARD. In any district there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, where lots comprising 30 percent or more of the frontage within 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 50 feet and shall be not less than 20 feet in any case. The front yard depth of any lot abutting a "major street" shall be measured from the proposed right-of-way lines shown on the Official Major Street Plan.

165.12 FENCES, WALLS AND VISION CLEARANCE.

1. On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner a to impede vision between a height of two and one-half feet and ten feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines. This regulation shall not apply to the C-2 District.

2. In any district, fences and walls not exceeding six feet in height are permitted within the limits of side and rear yards. A fence or wall not exceeding four feet in height is permitted within the limits of front yards. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

A. In any district where a fence or wall is required by a section of this chapter, the subdivision ordinance, or other ordinance, to serve as a screening wall, buffer wall, or other separating or protective wall, the restrictions of this subsection shall yield to the requirements of the specific ordinance.

B. Grade for determining the maximum height above grade for fences and walls:

(1) For a fence or wall along a street right-of-way, grade shall be the highest point of the pavement lying between the intersection of the centerline and a projection of the side lot lines.

(2) For a fence or wall between the front lot line and the front building line, grade shall be prorated between the grade at the front lot line and the grade shall be the grade at the building.

C. Fences and walls on a corner lot shall comply with the vision clearance requirements of subsection 1 of this section.

3. No lot or part of a lot within the City shall be enclosed in whole or in part with any barbed wire or electrically charged wire. This requirement shall not apply to those lots which are bounded on either side by an A-1 District.

4. The respective owners of adjoining tracts of land shall, upon written request of either owner and by mutual agreement filed with the City Clerk, be permitted to erect a fence on the property line; provided, the agreement indicates who will erect and maintain partition fences, or contribute thereto, and keep the same in good repair throughout the year.

5. In case a landowner desires to erect a fence when the owner of the adjoining land does not sign a mutual agreement, the landowner erecting the fence shall place the fence three feet inside the property line.

6. No person shall construct a fence upon land owned by another person without the other person's written consent. Violation of this section may be punished as a municipal infraction as provided in Chapter 4 of this Code of Ordinances.

7. All fences or other improvements shall be located and constructed in such a manner not to interfere with any utilities.

8. No person or entity shall erect, construct or place any fence upon any property without first applying for and receiving a fence permit through the Zoning Administrator. The permit application fee is ten dollars ($10.00), payable upon approval of the fence application. The Zoning Administrator shall determine whether a proposed structure or growth qualifies as a fence, as defined in Section 165.01 of this chapter, and whether it meets the requirements of this chapter.

9. Fences shall be constructed of customarily used materials such as wood, PVC, wrought iron, chain link, or other similar materials, unless specified otherwise herein. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, snow fence, or temporary construction fencing shall not be permitted for permanent

fencing. Wood fences shall be constructed of treated lumber, cedar, redwood, or similar types of wood that are resistant to decay. Determination of material acceptability shall be made by the Zoning Administrator.

10. All fences shall be constructed in a sound and sturdy manner and shall be maintained in a state of good repair and shall be aesthetically consistent, both in composition, design, color and materials, with the neighborhood or district within which it is located.

11. Fences consisting of hedges, planting material, landscape features or similar materials shall be constructed and maintained in a good and workmanlike manner and shall be aesthetically consistent with the neighborhood or district within which it is located. No poisonous, noxious or dangerous planting materials may be used and the fence may not be designed or constructed in such a way as to cause pain or injury to persons or animals. No spikes, broken glass, barb wire, electrical charge or similar materials shall be allowed.

12. No signs, writings, drawings, advertising materials or similar items shall be placed on any portion of a fence visible to the public or adjoining property owners unless otherwise specifically allowed by this Code of Ordinances and approved by the Zoning Administrator.

13. The Zoning Administrator may order the removal, repair or reconstruction of any fence which does not comply with this chapter or any other chapter of this Code of Ordinances. Notice of such removal, repair or reconstruction shall be provided by regular mail to the property owner. The property owner shall have 30 days from the date of such notice to remove, repair or reconstruct the fence as set forth in the notice. If the owner fails to comply with the notice, the City will remove the fence and will charge the cost of such removal against the subject property and its owner.

165.13 REQUIRED YARD CANNOT BE REDUCED. No lot shall be reduced in size so as to make the width or total area of the lot, or any yard, or any other open space, less than the minimum required by this chapter. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required under this chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this chapter.

165.14 BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the Planning and Zoning Commission and on record in the Office of the County Recorder shows a setback 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 requires a greater setback.

165.15 PENDING APPLICATION FOR BUILDING PERMITS. 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 building permits have been granted before the enactment of this chapter, the construction in conformance with such plans shall have been started prior to the effective date of the ordinance codified by this chapter and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

165.16 AGRICULTURAL USES EXEMPT. The provisions of this chapter shall not prohibit the use of land for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes of the land on which buildings or structures are located and no Zoning Certificates shall be required for any such use, building, or structure.

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DISTRICT REGULATIONS

165.17 A AGRICULTURAL DISTRICT. The regulations set forth in this section apply in the A Agricultural District:

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:

   A. Single-family dwellings.

   B. Agriculture and the usual agricultural buildings and structures.

   C. Truck gardening, orchards, and nurseries.

   D. Mining and extraction of minerals or raw material, subject to prior recommendation from the Commission and approval by the Board.

   E. Forest and forestry.

   F. Non-commercial parks, playgrounds, golf courses (both public and private) and recreational uses.

   G. Any use erected or maintained by a public agency.

   H. Public utility structures and equipment necessary for the operation thereof.

   I. Transmitting stations and towers.

   J. Outdoor advertising signs and billboards in accordance with the provisions of Section 156.04, and providing in addition, that prior recommendations must be obtained for such signs and/or billboards from the Commission and approval granted by resolution of the Board.

   K. Airports.

   L. Churches.

   M. Cemeteries.

   N. Kennels and riding stables.

2. Accessory Uses:

   A. Accessory buildings and uses customarily incidental to any of the above uses.

   B. Bulletin boards and signs appertaining to the lease, hire or sale of a building or premises, or signs appertaining to any material that is grown, or treated within the district; provided, however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.

3. Height Regulations. Any building hereafter erected or structurally altered may be erected to any height not in conflict with other existing or future ordinances of the City.

4. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

PRINCIPAL USE	LOT AREA	LOT WIDTH	FRONT YARD DEPTH	SIDE YARD	REAR YARD DEPTH
All uses	1 acre	200 feet	50 feet	50 feet	50 feet

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165.18 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The regulations set forth in this section apply in the R-1 Single-Family Residential District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purpose:

A. A single-family dwelling on each lot or building site of not less than 750 square feet of actual living space excluding garage and excluding any travel trailer or mobile home from such lot.

B. Public or private parks, playgrounds, golf courses, and other outdoor recreational facilities that are commonly, but not necessarily, operated on a non-profit basis; however, amusement parks, golf-driving ranges, golf miniature putting courses, normally operated for profit and imploring manufactured or constructed facilities of an unnatural or non-environmental design shall be excluded.

C. Agricultural crops, but not the raising of poultry, pets, or livestock. Agricultural crops are defined as follows: any agricultural product, vegetable or fruit, grown for human or animal consumption or use, or an accessory use thereto. To be considered an agricultural crop, the crop must be harvested at least twice per calendar year. Crops not harvested at least twice per year shall be considered weeds and/or grass and shall be subject to the provisions of Chapter 52 of this Code of Ordinances.

D. Churches.

E. Schools – public and private.

F. Day nursery schools and childcare centers, providing no building, structure, or accessory use for property so used is located no less than 30 feet from any other principal building on any other lot in an R District; and provided there is established and well maintained in connection therewith a completely fenced play lot of no less than 1,000 square feet in area for the first 20 or fewer children under care, with 25 square feet added to such play lot area for each additional designated child capacity of the principal building.

G. Funeral homes.

2. Accessory Uses.

A. Normal accessory buildings and structures for a dwelling such as: private garages, storage sheds, swimming pools, children's playhouses (shall not be used for dwelling purposes), radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc.

B. Normal accessory buildings and structures for public recreation areas such as: refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.

C. Domestic animals such as: cats, dogs, birds, tropical fish, etc., which are normally allowed to run free or are housed within the dwelling. Horses, cows, sheep, chickens, etc. normally considered farm or wild and untamed animals shall be excluded except as otherwise provided for in this chapter.

D. Flower and vegetable gardening.

E. Greenhouses and horticultural nurseries for non-commercial gain.

F. Home occupations of a professional, talented or artistic nature such as: doctor, engineer, lawyer, real estate or insurance agent, tailor, seamstress, watchmaker, dentist, designer, ceramics, beautician; however, those occupations normally classified as a trade and requiring the substantial use of contractors or mechanics tools or equipment such as: carpenters, electricians, monument cutters, painters, plumbers, etc., shall be excluded. (See definition of "home occupation" under Section 165.01.)

3. Maximum Height Regulation. No principal building shall exceed 35 feet in height.

4. Accessory Buildings. (See Section 165.09.)

5. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed:

PRINCIPAL USE	LOT AREA	LOT WIDTH	FRONT YARD DEPTH	SIDE YARD	REAR YARD DEPTH
Dwellings	9,000 square feet	75 feet	25 feet	7 feet	30 feet
Non-dwellings	1 acre	150 feet	50 feet	25 feet	50 feet

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165.19 R-2 LIGHT DENSITY RESIDENTIAL DISTRICT. The regulations set forth in this section (or elsewhere in this chapter which are applicable) apply in the R-2 Light Density Residential District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purpose:

A. Any use permitted in the R-1 District, provided such use complies with the minimum requirements of the R-2 District.

B. Two-family dwellings.

C. Multi-family dwellings; provided, however, individual buildings shall contain not more than six (6) dwelling units.

D. Day nursery schools and childcare centers, providing no building, structure, or accessory use for property so used is located no less than 30 feet from any other principal building on any other lot in an R-1 District; and provided there is established and well maintained in connection therewith a completely fenced play lot of no less than 1,000 square feet in area for the first 20 or fewer children under care, with 25 square feet added to such play lot area for each additional designated child capacity of the principal building.

E. Rooming and boarding houses.

F. Community facility building.

G. Hospital.

H. Mental institution.

2. Accessory Uses.

A. Any use permitted in the R-1 District, provided such use complies with the minimum requirements of the R-2 District.

B. Playground areas and equipment accessory to multi-family dwellings.

C. Multi-family entertainment and service centers, providing such areas shall not be located to the front of the principal building at ground level or above and such areas shall be screened from public view.

D. Storage garage accessory to the principal building.

3. Maximum Height Regulation. No principal building shall exceed 35 feet in height.

4. Accessory Buildings. (See Section 165.09.)

5. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the modified requirements:

PRINCIPAL USE	LOT AREA	LOT FRONTAGE	FRONT YARD DEPTH	SIDE YARD	REAR YARD DEPTH
Single- and two-family dwellings and day nurseries	7,500 square feet	60 feet*	25 feet	7 feet	30 feet
Multi-family dwellings	3,500 square feet per unit	80 feet	35 feet	10 feet	40 feet
Non-dwellings	1 acre	150 feet	50 feet	25 feet	50 feet
* All existing lots of record at the time of the adoption of this Code of Ordinances shall have a minimum of 50 feet.					

6. Building Floor Are to Lot Area Ratio Requirements. The building floor area ratio shall not exceed the following:

HEIGHT OF BUILDING	TOTAL FLOOR AREA TO LOT AREA RATIO
1 story	0.30
2 stories	0.50
2½ stories	0.60

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165.20 R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT. The regulations set forth in this section shall apply in the R-3 Medium Density Residential District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:

A. Any use permitted in the R-2 Residential District, provided that such use complies with the minimum requirements of the R-3 District.

B. Multiple dwellings.

C. Hospitals, clinics, nursing and convalescent homes, excepting animal hospitals and clinics.

D. Professional and semi-professional office buildings for the following:

Abstract title
Accountants; bookkeeping
Actuaries
Advertising (no shops)
Adjusters (insurance)
Aerial survey and photography
Appraisers (no sale or rental of any type of merchandise or equipment)
Architects
Attorneys
Auditors
Business analysts; counselors or brokers
Building contractors, office only (no shops or storage)
Chiropodists
Chiropractors
Consulates
Counseling, child guidance and family service
Court reporter, public stenographer
Credit reporting
Dentist
Detective agencies and investigating service
Drafting and plan service
Engineers, professional
Insurance and bonds
Manufacturers agents
Market research
Medical doctors
Model agencies (no school)
Mortgage broker
Notary public
Optician
Public libraries
Public relations
Real estate
Secretarial service
Social service bureau
Stock broker exchange; investment service
Tax consultants
Telephone answering service
Theater ticket agencies
Travel agencies

E. Any use that is found by the Zoning Administrator to be a use similar to one of the above named uses, and, in said official's opinion, conforms to the intent of this section.

2. Accessory Uses.

A. Any use permitted in the R-2 Residential District, provided such use complies with the minimum requirements of the R-3 District.

B. Retail shops and refreshment stands accessory to principal buildings of paragraph 1(B) (apartment buildings), and 1(D) (office buildings) of this section; provided, however, there shall be no access to such place of retail shop except from the inside of the principal building or internal courtyard, nor shall any display of stock, goods, or advertising for such be so arranged that it can be viewed from outside the principal building.

3. Height Regulations. No principal building shall exceed 45 feet in height.

4. Accessory Buildings. (See Section 165.09.)

5. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the modified requirements:

PRINCIPAL USE	LOT AREA	LOT FRONTAGE	FRONT YARD DEPTH	SIDE YARD	REAR YARD DEPTH
Dwellings	7,500 square feet	50 feet	25 feet	7 feet	30 feet
Offices	15,000 square feet	80 feet	30 feet	10 feet	35 feet
All other uses	1 acre	150 feet	50 feet	25 feet	50 feet
Multiple dwellings	1,500 square feet per unit	80 feet	30 feet	15 feet	35 feet

[The next page is 849]

165.21 R-4 MOBILE HOME PARK DISTRICT. The regulations set forth in this section apply in the R-4 Mobile Home Park District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:

A. Single-family dwellings.

B. Two-family dwellings.

C. Day nursery schools and childcare centers, provided that no building, structure, or accessory use for property so used is located no less than 30 feet from any other principal building on any other lot in an R District; and provided there is established and well maintained in connection therewith a completely fenced play lot of no less than 1,000 square feet in area for the first 20 or fewer children under care, with 25 square feet added to such play lot area for each additional designated child capacity of the principal building.

D. Park and recreation areas not operated for profit.

E. Community meeting or recreation building not operated for profit.

F. Laundromat.

G. Mobile home park.

2. Accessory Uses.

A. Uses and structures clearly incidental and necessary to the permitted principal use or structure of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or contiguous lot or contiguous lot under the same ownership.

B. Storage garage and storage sheds accessory to the principal building.

C. Swimming pools, tennis courts, gardens, and greenhouses.

3. Maximum Height Regulation. No principal building shall exceed 35 feet in height.

4. Accessory Buildings. (See Section 165.09.)

5. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed subject to modified requirements:

PRINCIPAL USE	LOT AREA	LOT FRONTAGE	FRONT YARD DEPTH	SIDE YARD	REAR YARD DEPTH
Conventional built home, single- and two-family dwellings, and day nurseries	7,500 square feet	60 feet	25 feet	7 feet	30 feet
Mobile home	40 feet x 100 feet; 4,000 square feet	40 feet	15 feet	5 feet	10 feet

6. Mobile Home Park Requirements.

A. Front yard perimeter (to be measured from all streets on which park abuts) – 25 feet.

B. Side yard perimeter – 25 feet.

C. Rear yard perimeter – 25 feet.

D. Area – two acres.

E. Drives – 25 feet in width surfaced with asphaltic or Portland cement concrete.

F. Sanitary facilities – connection with the municipal sewer system or adequate private disposal facilities.

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165.22 C-1 COMMERCIAL DISTRICT. The regulations set forth in this section apply in the C-1 Commercial District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:

A. Any use permitted in the R-3 District.

B. Retail business or service establishments such as the following:

Animal hospital, veterinary clinic or kennel; providing any exercising runway or pasture shall be at least 200 feet from any R District.
Antique shops.
Apparel shops, infant, teenage and adult.
Art goods and bric-a-brac shops.
Artist shops and studios.
Automobile, trailer and farm implement establishment for display, hire, sales, and minor repairs, including sales lots but not including body and fender work.
Bakery, whose products are sold only at retail and only on the premises.
Ballrooms and dance halls.
Banks, including drive-in teller service.
Barber shop or beauty salon.
Bath and massage parlors.
Bicycle sales.
Billiard parlors and pool halls.
Bookstore.
Bowling alley.
Business, commercial, dancing or music schools.
Candy shops, retail sales only.
Cigar and cigarette stores.
Clothes cleaning and laundry pickup stations.
Cocktail lounge or tavern.
Collection office of a public utility.
Confectionary and ice cream stores.
Curio stores.
Dairy store.
Dance and/or music studio.
Drive-in eating and drinking establishments, summer gardens, and road houses, including entertainment and dancing, provided the principal building is distant at least 200 feet from any R District.
Drugstore.
Florist shop, retail sales only.
Furniture stores.
Garden shops.
Gasoline service station.
General hardware stores, including display plumbing and electrical fixtures, but not in connection with a plumbing or electrical shop.
Gift shop.
Grocery, delicatessen or meat market, except those dealing in live poultry.
Haberdashery.
Hobby shop.
Hotels.
Household appliance stores and hardware store. Ice cream parlor.
Ice storage and distributing station of not more than five-ton capacity.
Jewelry stores

Landscape garden plant stores.
Launderette.
Leather goods store.
Locker plants for storage and retail only.
Lumber yards, retail, but not including any mill work, manufacturing, fabricating or wholesale operations.
Mail order offices, display room.
Messenger offices
Millinery shops
Motels and auto courts.
Music store and record shop.
Newsstands.
Night clubs.
Notions.
Paint and wallpaper store.
Pet shop.
Photographic store and/or studio.
Post office substation.
Printing.
Radio and television sales and repair.
Radio or TV broadcasting stations, studios and offices but not towers in excess of 100 feet.
Restaurants.
Shoe and shoe repair shops.
Sign painting shops.
Soda fountain and cafe providing no alcoholic beverages may be served or sold.
Soft drink stands.
Souvenir stores and variety stores.

C. Any use which is found by the Zoning Administrator to be a use similar to one of the above named uses and, in said official's opinion, conforms to the intent of this section.

D. Outdoor advertising signs and billboards in accordance with the provisions of Chapter 156 of this Code of Ordinances.

2. Accessory Uses. Any accessory uses permitted in the R-3 District, provided such use complies with the minimum requirements for the C-1 District.

3. Height Regulations. No principal building shall exceed 35 feet in height.

4. Accessory Buildings. (See Section 165.09.)

5. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Width	Front Yard Depth	Side Yard* Least Width on One Side	Side Yard* Minimum Sum of Both Sides	Rear Yard Depths*
C-1	7,500 square feet	50 feet	45 feet	None required except adjoining any R District, in which case not less than 25 feet*		25 feet
Any R-3 use shall be as specified in the R-3 District.						
* All yards abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.						

6. Firewalls. All buildings or structures located in the C-1 District shall comply with the following regulations if the walls are located closer than seven (7) feet to the property line except those walls that abut a street or alley.

A. Minimum Type III construction with a one-hour fire resistance construction on the exterior of the walls.

(1) A signed statement from the material supplier that the material meets a minimum Type III one-hour fire resistance construction.

(2) A signed statement from the property owner or agent that they have read the regulations, understand the regulations, that they shall comply with the regulations and that they shall allow an inspector authorized by the City to inspect the construction and materials used in the construction of the firewalls.

(3) The Public Works Director can sign the building permit when all of the above requirements are met.

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165.23 C-2 CENTRAL BUSINESS COMMERCIAL DISTRICT. The regulations set forth in this section apply in the C-2 Commercial District.

1. Principal Permitted Uses.

A. Any use permitted in the C-1 District, provided that such use shall comply with the minimum requirements of the C-2 District. However, any multiple dwelling units or two-family dwelling units located in the Central Business Commercial District shall be permitted on the second floor or above only. No multiple dwelling units or two-family dwelling units shall be permitted on the ground floor of the C-2 District.

B. Manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises.

C. Printing or publishing houses.

2. Accessory Uses.

A. Accessory uses permitted in the C-2 District.

B. Any exterior or roof sign the height of which shall not exceed 40 percent of the building height above the roof line, but not to exceed 50 feet above the roof line in any case. For buildings less than 40 feet in height, the maximum height above the roof line for any exterior or roof sign shall be 16 feet.

3. Height Regulations. No building shall exceed 35 feet in height.

4. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Width	Lot Area Per Family	Front Yard Depth*	Side Yard Least Width on Any One Side	Width Minimum Sum of Both Side Yards	Rear Yard Depth
All uses	None required unless the proposed right-of-way of a thoroughfare shown on Official Major Street Plan, in which case the building setback line shall be the proposed right-of-way line.				None except adjacent to an R District, in which case not less than 10 feet		None except abutting an R District, in which case not less than 25 feet

5. Firewalls. All buildings or structures located in the C-2 District shall comply with the following regulations if the walls are located closer than seven feet to the property line except those walls which abut a street or alley.

A. Minimum Type III construction with a one-hour fire resistance construction on the exterior of the walls.

(1) A signed statement from the material supplier that the material meets a minimum Type III one-hour fire resistance construction.

(2) A signed statement from the property owner or agent that they have read the regulations, understand the regulations, that they

shall comply with the regulations and that they shall allow an inspector authorized by the City to inspect the construction and materials used in the construction of the firewalls.

(3) The Public Works Director can sign the building permit when all of the above requirements are met.

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165.24 M-1 LIGHT INDUSTRIAL DISTRICT. The regulations set forth in this section apply in the M-1 Light Industrial District.

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:

A. Any business or service establishment permitted in a C District which is incidental to a industrial or manufacturing use.

B. Industrial, manufacturing, major repair, processing, storage and wholesale establishments and services such as the following:

Automobile body and fender repair shop.
Automobile repair garage.
Automobile construction, assembly or factories specializing in the re-work or re-building or automobile components.
Bag, carpet and rug cleaning.
Bakeries.
Carpenter and cabinet shops.
Concrete mixing concrete products manufacture.
Contractor's equipment and materials storage yard.
Creamery, bottling works, dairy ice cream manufacturing, ice manufacturing and cold storage plant.
Enameling, lacquering or japanning.
Flammable liquids, underground storage only, not to exceed 25,000 gallons and located not less than 200 feet from any R District.
Foundry casting lightweight non-ferrous metals or electric foundry not causing noxious fumes or odors.
Laboratories, experimental, film or testing.
Laundries.
Lumber and building supply yards.
Machine shop.
Milk distributing station.
Motor freight terminal.
Plumbing, heating and air-conditioning shops.
Sawmill, planning mill, including manufacture of wood products.
Sheet metal shops.

C. Any residential use shall be prohibited, except for caretaker's quarters incidental to a permitted industrial use.

2. Accessory Uses. Any accessory use customarily accessory and incidental to a permitted principal use.

3. Required Condition. 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, offensive or pollute the air or water due to the emission of cinders, dust, gas fumes, noise, odor, smoke, refuse matter or water-carried waste.

4. Height Regulations. No building shall exceed 45 feet in height.

5. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

USE	LOT AREA	LOT WIDTH	FRONT YARD DEPTH	SIDE YARD* EACH SIDE	REAR YARD DEPTH
All uses	10,000 square feet	75 feet	45 feet	10 feet**	45 feet**

* All yards in the M-1 District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.

** M-1 District adjacent to any R District, the minimum setback shall be 50 feet from the R District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions for the required minimum front yard depth.

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165.25 H MEDICAL DISTRICT. The regulations set forth in this section shall apply only in the H Medical District.

1. Use Regulations and Restrictions. All buildings shall be used only for the exclusive use of hospital, medical, ambulance, and other related services to meet the needs for human care in the City.

2. Parking. There shall be provided sufficient parking for the use of the facilities by the public and for the persons employed in said facilities.

3. Building Permits. No building shall be constructed without first obtaining a building permit from the City.

4. Height. No building shall exceed 35 feet in height.

5. Building Line Restrictions.

A. No building line shall be closer to the north right-of-way line than the present hospital building line.

B. No building line shall be closer than 15 feet of the other property lines of this district.

6. Open Space Requirements. Open areas between buildings and between buildings and lot lines shall be such as to adequately preserve the aesthetic beauty of the entire district as it pertains to the natural setting of its surroundings.

7. Enforcement. No permits or licenses shall be issued for any use, structure or purpose not in conformance by the provisions of this section.

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SPECIAL USES

165.26 SPECIAL USES. The regulations set forth in this section or elsewhere in this chapter which are applicable shall apply to the Unclassified and Special Uses listed in this section. It shall be recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically in any classes of use as set forth in the various districts established by this chapter; therefore, these uses shall be subject to certain conditions and standards set forth in this section, and the authority for the location thereof shall be subject to review by the Commission and the issuance of a special use permit by the Board of Adjustment; provided, however, a special use permit may not be granted for a use in a zoning district from which it is specifically excluded by the provisions of this section.

165.27 SPECIAL USES DEFINED. The following uses are declared special uses, and upon the issuance of a special use permit, such special uses may be authorized in any zoning district, except as it is specifically excluded or limited by the provisions of this section.

1. Accessory or branch structures and facilities for public utilities and public service uses, including reservoirs and tanks, pumping stations, telephone exchanges and power and transformer stations; providing, however, equipment storage yards and garages that are considered commercial, business, and industrial uses shall not be permitted in any R District.

2. Borrow pits and quarries for rock, sand, gravel, or other soil deposits; provided, however, these uses are specifically excluded from any R or C District.

3. Buildings and uses owned by a County, City and County, City or other political subdivision which are operated for the social benefit of convenience of the public; providing, however, equipment storage yards and garages, etc., which are operated and maintained for the necessary business and industrial service of the community shall not be permitted in any R District.

4. Churches.

5. Clubs and lodge and fraternal buildings that are operated by nonprofit benevolent organizations for the social benefit or convenience of the public.

6. Columbaria, crematories, and mausoleums unless inside a cemetery; providing, however, these uses are specifically excluded from any R District.

7. Educational schools, facilities and institutions including elementary schools, junior high schools, high schools and colleges, both public and privately owned, providing for the general education of mankind. Schools that specialize in limited short business, commercial, and industrial training courses and are operated for commercial gain, are specifically excluded from this section and shall be considered as a regular business or commercial use.

8. Establishments or enterprises involving large assemblages of people or automobile as follows; provided, however, these uses are specifically excluded from any R District:

A. Amusement parks.

B. Carnivals, circuses and fairgrounds, except as hereinafter provided.

C. Commercial sport or recreational enterprises including nonprofit amphitheaters, convention halls and auditoriums.

D. Race tracks and rodeo grounds.

9. Golf, swimming, and tennis clubs or country clubs and similar public and private owned uses.

10. Mental hospitals; providing, however, these uses are specifically excluded from any R District.

11. Mining operations; providing, however, these uses are specifically excluded from any R District.

12. Rock crushing plants or the processing of materials from borrow pits and quarries; providing, however, these uses are specifically excluded from any R District.

13. Museums and libraries not operated for profit.

14. Nursery schools for the day care or temporary overnight care of children.

15. Public parks.

16. Recreation, amusements, refreshment and service buildings in public parks, playgrounds, and golf courses.

17. Radio and television transmitters.

18. Rescue missions and leagues; provided, however, these uses are specifically excluded from R Districts.

19. Refuse and garbage dumps, incinerators, and other waste disposal methods, providing, however, these uses are specifically excluded from R, C, or M-1 Districts.

20. Sewage disposal plant.

21. Shooting ranges, including pistol, rifle, skeet and trap ranges.

22. Temporary offices, billboards, and buildings incidental to the development and construction of commercial, industrial and residential projects.

23. Travel trailer parks, as defined in Section 165.01 of this chapter (in A and C-1 Districts only).

A. Front Yard. Same as district or 50 feet, whichever is greater. This requirement shall apply to any and all roads or streets upon which the travel trailer park abuts.

B. Side Yard. 35 feet.

C. Rear Yard. 35feet.

D. Minimum Area. 1½ acres.

E. Maximum Density. 20 unit spaces per gross acre of park site.

F. Drives. 25 feet in width with asphaltic concrete surface.

G. Service Building. A common service building providing laundry facilities, short order food service, accessory supplies, etc., may be included in the travel trailer parks permitted in the A-1 and C-1 Districts, provided such building shall be located within the central travel trailer park area, shall not be visible to passing traffic, and shall be restricted to the use of the park occupants. Such service buildings shall be permitted in the A-1 and C-1

Districts, providing such use shall conform to the requirements provided in the A-1 and C-2 District Regulations.

H. Screening. The rear and/or side yards shall be screened from adjacent property access by planting screen not less than 10 feet in width, or by an unclimbable fence wall.

I. Minimum Space Size. 20 feet by 55 feet.

J. Minimum Space Area. 1,100 square feet.

K. Off-Drive Parking. One parking space for and within the area of each trailer space.

L. Minimum Front Yard. 10 feet.

M. Minimum Rear Yard. 5 feet.

N. Minimum Side Yard. 5 feet.

O. Trailer Separation. The minimum distance between any two trailers shall be not less than 10 feet.

165.28 REQUIRED CONDITIONS FOR SPECIAL USE PERMIT. A special use permit shall not authorize a use which does not comply with the minimum requirements of the district in which it is located. A special use permit shall not authorize a use that is in conflict with any ordinance of the City or law of the State of Iowa regulating nuisances, pollution, or hazardous occupation. All requests for authorization of a special permit for special uses shall be accompanied by a site plan in compliance with Section 165.41 of this chapter.

165.29 RESTRICTIONS FOR SPECIAL USE PERMITS. Authorization for a special use permit shall not be granted for failure to comply with the following conditions:

1. Buildings involving the large assemblages of people shall not be located less than 300 feet from any existing dwelling site.

2. Uses involving nuisances such as noise, vibration, pollution, etc., shall not be located less than 500 feet from an R District or less than 1,000 feet from an existing dwelling.

3. Uses involving the large assemblages of people shall not be located in a vicinity where the arterial traffic system is inadequate to provide for the increased traffic density.

4. Uses involving the extensive use of exterior lighting shall not be located in a vicinity where such lighting may be hazardous to air or ground traffic ways and such uses shall not be located less than a distance required to reduce the light intensity to normal residential street lighting intensity at any R District boundary.

5. The following restriction shall be complied with: Uses of a utility or public service which are located within an R or C District, for the benefit of improved public service, shall be screened from public view by buffer walls or strip parks in accordance with Sections 165.36 through 165.40.

165.30 TEMPORARY USES. Notwithstanding other provisions of the chapter, the Council may, without notice, public hearing or other procedures described in Sections 165.26 through 165.31 for the issuance of a special permit, issue a special permit authorizing the

operation of a charitable or other nonprofit sponsored carnival for a period not to exceed seven (7) days.

165.31 PROCEDURE FOR SPECIAL USE PERMIT. The procedure for obtaining a special use permit shall be as follows:

1. Written applications on approved forms shall be filed with the Zoning Administrator and shall be accompanied by such plans as required by the provisions of this chapter in quadruplicate.

2. The applications shall be referred to the Commission. The Commission shall hold a public hearing to review the application for special permit and shall make a report to the Board of Adjustment regarding the recommended disposition of the application within 45 days from the date of such public hearing.

3. The Board of Adjustment shall hold a public hearing within 30 days after receiving the certification of said recommended disposition by the Commission.

4. Notice of hearing by the Commission and Board shall be given to all property owners within 500 feet of the boundary of the property on which the special use is to be located. Such notice shall be by United States mail at least 10 days prior to the hearing and shall contain the time and location of such hearing.

5. The special permit issued may include time limits, and other conditions or safeguards deemed necessary or appropriate by the Board. Violations of such conditions and safeguards shall be deemed a violation of this chapter and punishable under the provisions of this chapter. In addition, the special permit in connection with such violation, shall be subject to revocation by the Council.

6. Whenever an application for special permit has been denied by the Board, no new application for special permit including the same property or any portion thereof shall be filed or considered by the Council until six (6) months shall have elapsed from the date of the official denial of the first operation.

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OFF-STREET PARKING AND LOADING AREAS

165.32 OFF-STREET PARKING AND LOADING AREAS - INTENT. It is the intent of this section to prevent traffic congestion and to provide for proper traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic; therefore, it shall be recognized that the requirements of this section are minimum and that in certain uses of land, these requirements may be inadequate. Where review of the site plans and intended land use indicate through the application of proven standards of experienced statistics that the requirements herein are inadequate for the specific land use adaptation, a greater requirement for off-street parking space is justified and may be required to preserve the intent of this section.

165.33 OFF-STREET LOADING SPACE REQUIRED. In any district, except the C-2 Commercial 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.

1. Each loading space shall be not less than 10 feet in width and 40 feet in length.

2. Such space may occupy all or any part of any required yard or court space, except required open space under Section 165.35 and required planting screens under Sections 165.36 through 165.40 of this chapter.

165.34 OFF-STREET PARKING AREA REQUIRED.

1. In all districts, except the C-2 Commercial District, in connection with every industrial, commercial, business, trade institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule; however, no parking area required hereunder shall be less than 1,000 square feet in area except in the case of dwellings and retail stores and shops under 500 square feet.

A. Automobile sales and service garages – one parking space for each 300 square feet of floor area and one parking space for each four persons regularly employed on the premises.

B. Banks, business and professional offices – one parking space for each 200 square feet of floor area and one parking space for each office in the principal building or 1¼ parking spaces for each person regularly employed on the premises, whichever is greater.

C. Bowling alley – five spaces for each alley and one space for each five spectator seats.

D. Churches – one space for each four seats and one parking space for each classroom.

E. Dance halls, assembly halls – one parking space for each 100 square feet of floor area or one parking space for each four seats of maximum seating capacity, whichever is greater.

F. Dwellings, residential:

(1) One and two-family dwellings – two parking spaces for each dwelling unit, exclusive of private garages.

(2) Multi-family dwelling – two parking spaces for each of the first 12 dwelling units and 1¼ parking spaces for each additional dwelling unit. One garage parking space for each dwelling unit may be counted as a portion of the parking requirement; or each garage parking space may be counted as a portion of the parking requirement when a separate visitor parking area equal to one parking space for each dwelling unit is provided.

G. Funeral homes, mortuaries – 15 parking spaces or one parking space for each four seats in the principal auditorium or four parking spaces for each service or viewing room, whichever is greater. In addition, one parking space for each two persons regularly employed on the premises shall be provided.

H. Furniture, appliance and other retail stores displaying large and bulky merchandise – one parking space for each 400 square feet of floor area.

I. Hospitals, sanitariums and rest homes – one parking space for each four patient beds and one parking space for each two persons regularly employed on the premises.

J. Hotels, motels, lodging houses – one parking space for each room or suite of rooms offered for tourist accommodations and one parking space for each two persons regularly employed on the premises.

K. Industrial or manufacturing plants – one parking space for each two employees on the maximum working shift; or one parking space for each 1,000 square feet of floor area up to 10,000 square feet and then one parking space for each additional 1,500 square feet thereafter, whichever is greater.

L. Restaurants, taverns, night clubs or similar places dispensing food, drink or refreshments – one parking space for each 50 square feet of floor area devoted to patron use within the establishment. In addition, one parking space must be provided for each four persons regularly employed or intended to be regularly employed on the premises.

M. Retail stores, super markets, drug and sundry stores, department stores, etc.

(1) For stores over 2,000 square feet floor area – one parking space for each and every 100 square feet of floor area.

(2) For stores and shops under 2,000 square feet – one parking space for each and every 500 square feet of floor area, and one space for each person regularly employed on the premises; provided, however, there shall not be less than five parking spaces.

N. Schools and other places of education or instruction.

(1) Elementary, junior high, and other places for under driving age students – one parking space for each and every person regularly employed on the premises. In addition, one parking space for each 20 student desks or classroom seating facilities.

(2) High schools – one parking space for each and every person regularly employed on the premises. In addition, one parking space for each 10 student desks or classroom seating facilities.

(3) Colleges, trade schools and other places of young adult learning – one parking space for each and every person regularly employed on the premises. In addition, one parking space for each four student desks or classroom seating facilities.

(4) Parking spaces required by in paragraphs 1 through 3 above shall be in addition to requirements for sports arenas, auditoriums, etc.

O. Sports arenas, theaters, auditoriums, and other similar places of public assembly – one parking space for each four persons of maximum standing and seating capacity.

P. Wholesale establishments or warehouses – one space for each person regularly employed on the premises.

2. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use that is mentioned and to which said use is similar, shall apply.

3. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than 10 feet in width in the case of a dwelling and not less than 20 feet in width in all cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question. Except where provided in connection with a use permitted in a residential district, such easement of access or access drive shall not be located in any residential district.

4. 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 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 five feet from the R District boundary and shall be effectively screen-planted.

B. Any off-street parking area and its service drives, including any commercial parking lot for more than two vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surface as shall be approved by the City Engineer so as to provide a durable and dustless surface; 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 or self-propelled vehicles.

C. Any lighting used to illuminate any off-street parking area including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any R District.

5. Off-street parking facilities for all uses, except one- and two-family dwellings fronting on a residential street, shall be designed so as to permit entrance and exit by forward movement of the vehicle. The backing or backward movement of vehicles from an off-street parking facility on to a major thoroughfare, including all thoroughfares designated on the Major Streets Plan as other than residential streets, shall be strictly prohibited. Circular drives, interior turnarounds, etc., may be used to comply with the foregoing requirement.

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OPEN SPACE REQUIREMENTS

165.35 OPEN SPACE REQUIREMENTS. It is recognized that the extensive use and excessive congestion of land induces the natural elements to become hazardous to the general health and welfare of the community. Therefore, the intent of this section is to require not less open space than that which is necessary to preserve the basic qualities and beauty of nature.

1. Open Space Requirements. All buildings and land use in any R District shall comply with the following:

A. On each lot there shall be provided an open space equal to at least 25 percent of the total lot area; said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two 20-foot lanes that are separated by open space.

B. Each individual and unattached principal structure of an apartment or office complex shall be separated from any other principal structure in the complex by an open space of not less than 16 feet in width.

C. Where door and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than 30 feet. Said distance to be measured on a line projected at right angles at the opening from the wall containing the opening to the opposite wall.

D. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

2. All buildings and land use in any C District shall comply with the following except as herein provided:

A. Any R District use in any C District shall comply with subsection 1 above.

B. Any commercial use in the C-2 District shall be exempt from this section.

C. On each lot there shall be provided an open space equal to at least 20 percent of the total lot area, said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two 20-foot lanes that are separated by open space.

D. Each individual and unattached principal structure of an apartment or office complex shall be separated from any other principal structure in the complex by an open space of not less than 16 feet in width.

E. Where doors and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than 30 feet. Said distance to be measured on a line projected at right angles at the opening, from the wall containing the opening to the opposite wall.

F. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

3. All buildings and land use in any M District shall comply with the following:

A. On each lot there shall be provided an open space equal to at least 20 percent of the total lot area; said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives; and ingress-egress drives shall not exceed two 20-foot lanes which are separated by open space.

B. Each individual and unattached principal structure of an industrial or office complex shall be separated from any other principal structure in the complex by an open space of not less than 16 feet in width.

BUFFERS REQUIRED

165.36 BUFFERS REQUIRED. It is recognized that the transition from one district to another district of contrasting and conflicting uses is across a barrier and line in theory and not existence. Therefore, it is the intent of this section to require the actual provision of a physical barrier so as to reduce any possible harmful or detrimental influence one district use may or may not have to an abutting and contrasting or conflicting district use.

165.37 CONDITIONS FOR REQUIRING A BUFFER. The following conditions shall require a buffer between abutting districts:

1. All M Districts that abut any R District shall be buffered as required in this section.

2. Any lot in any district having both its front and rear lines abutting a public thoroughfare (a double frontage lot) shall be buffered from the thoroughfare abutting its rear line by one of the buffer methods set forth in this section.

3. Any storage or loading yard in any C or M District which abuts a public thoroughfare shall be restricted from public view by a buffer.

165.38 PERMISSIVE BUFFERS. Buffers required under the provisions of this section or elsewhere in this chapter shall be accomplished by either a buffer wall, buffer park, or approved combination thereof.

1. A Buffer Wall. Such shall be not 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 wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; the use of weather resistant wood, metal, or manufactured substitutes may be used as an accessory material for aesthetic quality.

2. A Buffer Park. Such park shall be not less than 60 feet in width, designed and landscaped by a qualified architect, engineer, or landscape architect; predominate planting shall be of evergreen type trees, shrubs and plants so as to assure year-round effectiveness; density and height of planting shall be adequate to serve as a solid and impenetrable screen.

165.39 BURDEN OF PROVISION OF A BUFFER. The burden of provision and selection of the buffer shall be as follows:

1. Where two different districts, requiring a buffer between them, are both in an existing improved condition, the above requirement is not retroactive and should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event of any or all of the improved property is abandoned, destroyed, demolished, etc., for the purpose of renewal, redevelopment, etc., that portion of such property being renewed, redeveloped, etc. shall be considered vacant land subject to the requirements herein.

2. Where one of two different districts requiring a buffer between them is partially developed, the developer of the vacant land shall assume the burden.

3. Where both districts requiring a buffer between them are vacant or undeveloped except for agricultural use, the burden shall be assumed by the developer as the land is improved or developed.

165.40 WAIVER OF BUFFER REQUIREMENT. 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, providing such waiver does not permit the exposure of undesirable characteristics of land use to public view.

SITE PLANS

165.41 SITE PLANS. Site plans that are required for review and approval of special uses under Section 165.28 of this chapter shall comply with and illustrate the following:

1. All site plans shall be drawn at a scale not less than one inch equals 100 feet, and six (6) copies of the site plan shall be submitted with zoning permit application.

2. A preliminary site plan clearly illustrating the general methods, spatial distribution, location, etc. to be used for compliance with the requirements of this chapter may be submitted for preliminary land use approval; providing however, the final site plan required by this section shall be submitted, reviewed, and approved prior to the issuance of a building or construction permit.

3. The final site plan required shall include the following legal information:

A. Legal property owners name and description of property.

B. Applicant name, requested land use and zoning.

C. If the applicant is other than the legal owner, the applicant interest shall be indicated and the legal owner's authority to appeal shall be certified legal form.

4. The final site plan shall clearly illustrate and enumerate the following information:

A. Property boundary lines, dimensions and total area.

B. Contour lines at intervals of not more than five (5) feet; City datum. If substantial topographic change is proposed, the existing topography shall be illustrated on a separate map, and the proposed finished topography shown on the final site plan.

C. The availability and location of existing utilities.

D. The proposed location, size, shape and type of all buildings or structures.

E. The total square feet of building floor area, both individually and collectively.

F. The number of dwelling units, bedrooms, offices, etc. as required to determine spatial compliance.

G. A vicinity sketch showing detailed adjacent existing land uses within 500 feet of the property, and general existing land uses within 1,000 feet of the property.

H. Existing buildings, rights-of-way, street improvements, overhead utilities, easements, drainage courses, etc.

I. Parking areas, number of parking spaces proposed, number of parking spaces required by this chapter, type of surfacing to be used, etc.

J. Walkways, driveways, outside lighting, walls, fences, signs, monuments, statues and other manmade features to be used in the landscape.

K. Location and type of all plants, grass and trees to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated in elevation and prospective as well as plan, with the approximate size and exact name of plants, shrubs or trees to be planted clearly indicated.

L. Walls, fences or other artificial screens to be used as buffers shall be shown in elevation and prospective as well as plan with proposed height and structural material to be used indicated.

M. Traffic considerations, architectural themes, pedestrian movement, etc. and all other considerations pertinent to the proposed uses may be requested for illustration or statistical purposes.

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EXCEPTIONS, MODIFICATIONS, INTERPRETATIONS

165.42 STRUCTURES PERMITTED ABOVE HEIGHT LIMIT. The building height limitations of this chapter shall be modified as follows:

1. Chimneys, cooling towers, fire towers, grain elevators, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, radio or television towers or essential mechanical appurtenances may be erected to a height in excess of applicable district regulations, by special permit.

2. Public, semi-public, or public service buildings, hospitals, sanatoriums, or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot in addition to the minimum yard requirements, for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.

165.43 DOUBLE FRONTAGE LOTS. Buildings on double frontage lots extending through from street to street shall be buffered from the rear street by a buffer wall and access to the rear street shall be prohibited.

165.44 REAR YARDS ADJACENT TO ALLEYS; HOW COMPUTED. In computing the depth of a rear yard where the rear yard opens on an alley, one-half of the alley width may be included as a portion of the rear yard except for garages and accessory buildings that shall have a minimum of seven-foot setback from overhang to alley.

165.45 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 24 inches, including roof overhang.

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ADMINISTRATION AND ENFORCEMENT BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

165.46 ADMINISTRATION AND ENFORCEMENT. The provisions of these zoning chapters shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator shall find that any of the provisions of these zoning chapters are being violated, the Zoning Administrator 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 Zoning Administrator shall order discontinuance of 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.

165.47 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, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten 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 Zoning Administrator for a period not exceeding six 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 Zoning Administrator 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 zoning code.

165.48 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE. Building permits or certificates of zoning compliance issued on the basis of plans and applications, approved by the Zoning Administrator, 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 zoning code.

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BOARD OF ADJUSTMENT PROCEDURE, POWERS AND DUTIES

165.49 APPOINTMENT AND TERM. A Board of Adjustment is hereby established which shall consist of five members appointed by the Council. All appointments to the Board shall be for three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year of one-third the total number or as near as possible, to stagger the terms. Terms shall be limited to three consecutive terms or nine years whichever is longer with a waiting period of two years before eligible for reappointment. Board Members shall receive no compensation for their services.

(Ord. 466 – June 17 Supp.)

165.50 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 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.

165.51 APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, Board or bureau of the City affected by an decision of the Zoning Administrator. Such appeal shall be taken within ten (10) days by filing with the Zoning Administrator and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator 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 Zoning Administrator certifies to the Board after notice of appeal shall have been filed with said official, that by reason of facts stated in the certificate a stay would, in the opinion of the Zoning Administrator, 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 or record on application on notice to the Zoning Administrator and on due cause shown.

165.52 FEE FOR APPEAL. Any person filing for an appeal from this zoning code shall pay a fee of $250.00.

165.53 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.

165.54 DISPOSITION OF APPEALS. The final disposition of any appeal shall be in the form of a resolution by the Board, either reversing, modifying, or affirming the decision or determination appealed from. A copy of such resolution shall be filed with the City Clerk.

165.55 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 Zoning Administrator in the enforcement of this chapter.

165.56 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:

1. To 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 for purposes of public communication, which the Board determines is reasonably necessary for the public convenience of welfare.

2. To 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.

3. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

A. A written application for 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.

B. Notice of public hearing shall be given in a newspaper of general circulation in advance of public hearing. The owner of the property for which special exception is sought or the owner's agent and any other affected property owners within 250 feet shall be notified by mail. Notice of hearing may also be posted on the property for which special exception is sought.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board shall make a finding that it is empowered under the section of these zoning regulations described in the application special exception will not adversely affect the public interest.

E. In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with these zoning regulations. 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 zoning code. 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, or both, such action within the time limit set, shall void the special exception.

165.57 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 these zoning regulations would result in unnecessary hardship. A variance from the terms of these zoning regulations shall not be granted by the Board unless and until:

1. A written application for a variance is submitted, demonstrating that:

A. 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.

B. 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.

C. The special conditions and circumstances do not result from the actions of the applicant.

D. 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, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

2. Notice of public hearing shall be given in a newspaper of general circulation in advance of the public hearing. The owner of the property for which the variance is sought or the owner's agent and any other affected property owners within 250 feet shall be notified by mail.

3. The public hearing shall be held. Any party may appear in person or by agent or by attorney.

4. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.

5. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance.

6. The Board shall further make a finding that the granting 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 these zoning regulations. 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 these zoning regulations. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved or any use expressly or by implication prohibited by the terms of these zoning regulations.

165.58 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, requirement, 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 powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of this applicant on any matter upon which it is required to pass under this chapter or to effect any variation in the application of this chapter.

165.59 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.

DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF ADJUSTMENT COUNCIL AND COURTS ON MATTERS OF APPEAL

165.60 DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL. It is the intent of these zoning regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator for resolution and decision. In the event the questions of interpretation are not satisfactorily resolved by the interpretation of the Zoning Administrator, then the matter of questions of interpretation shall be submitted to the Board of Adjustment for decision. The decision of the Board of Adjustment may be appealed to the District Court of Iowa in and for Howard County. It is the further intent of this chapter that the duties of the City Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement since questions of interpretation and enforcement shall be first decided by the Zoning Administrator and if a dispute still arises then the Board of Adjustment shall decide the matter and issues. Under these zoning regulations, the City Council shall have only the duties of:

1. Considering and adopting or rejecting proposed amendments or the repeal of these zoning regulations as provided by law.

2. Considering applications for special permits for temporary uses as specified in Sections 165.26 through 165.31 of this chapter.

165.61 CHANGES AND AMENDMENTS, MAP REPLACEMENT AND ZONING OR ANNEXED AREAS. The City Council may on its own motion or on petition after public notice and hearing as provided by law, and after report by the Commission, amend, supplement or change the boundaries or regulations herein or subsequently established. Any owner or owners of property may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least 50 percent of the area included in such proposed change and by the owners of 50 percent of the property within 300 feet therefrom, and said petition shall be filed with the Commission. The Commission shall make a report to the City Council within 60 days from the date of receipt of such petition. In case the proposed amendment, supplement or change be disapproved by the Commission, or in case of a protest against any proposed amendment or change signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all the members of the Council.

165.62 RENEWAL OF PETITION AFTER DENIAL. Whenever a petition requesting an amendment, supplement, or change of any regulation prescribed by this chapter has been denied by the City Council, such petition cannot be renewed for one year thereafter unless it be signed by the owners who previously objected to the change; this provision, however, shall not prevent the City Council from action on its own initiative in any case or at any time as provided in this section.

165.63 MAP REPLACEMENT. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by ordinance 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) as part of Ordinance No. _____ of the City of Cresco, Iowa.*

165.64 ZONING OF ANNEXED AREAS. Any land annexed to the City after the effective date of this chapter shall be zoned A Agricultural until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with Section 165.61 of this chapter. Said final zoning plan shall be adopted within six (6) months of date of annexation.

165.65 COMPLAINTS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any persons may file a written complaint. The complaint shall state fully the causes and basis of the complaint and the particular ordinances of the City of Cresco that are violated. The complaint shall be filed with the Zoning Administrator, and the Zoning Administrator shall immediately investigate the complaint and order in writing what action shall take place on the complaint as provided in this Code of Ordinances. The Zoning Administrator may recommend that a charge be filed under the particular ordinance that is alleged to be violated with the charge being filed before the County Magistrate in the Office of the Clerk of the District Court of Howard County at Cresco, Iowa, or the Zoning Administrator may recommend to the complainant that zoning variance be applied for and heard by the Board of Adjustment.

165.66 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.

EDITOR'S NOTE

Ordinance No. 442, adopting a new Official Zoning Map on November 19, 2012, and the following ordinances which have been adopted amending the Official Zoning Map described in Section 165.03 of this chapter have not been included as a part of this Code of Ordinances, are hereby specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Title
170.02 Jurisdiction
170.03 Definitions
170.04 Procedure
170.05 Subdivision Design Standards
170.06 Preliminary Plat Requirements
170.07 Final Plat Requirements
170.08 Fees
170.09 Variations and Exceptions
170.10 Enforcement
170.11 Changes and Amendments
170.12 All Plats Involving the Subdivision Must Be Approved

170.01 TITLE. These regulations shall be known as the "Subdivision Ordinance of Cresco, Iowa."

170.02 JURISDICTION. This chapter is adopted by the City of Cresco, Iowa, governing the subdivision of all lands within the corporate limits of the City, and within two miles adjacent to corporate limits. The City Council shall review all subdivision plats or plats of survey for divisions or subdivisions of land within two miles adjacent to corporate limits. Chapter 354.9 of the *Code of Iowa* authorizes the review of subdivision plats or plats of survey for divisions or subdivisions outside the City's boundaries but not more than two miles distance from the City's boundaries.

170.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are herein defined.

1. "Architect" means a registered architect authorized to practice architecture, as defined by the Registration Act of the State of Iowa.

2. "Block" means an area of land within a subdivision that is entirely bounded by streets, highways, parks, railroad, or similar fixed land division and/or the exterior boundaries of the subdivision.

3. "Building line" means building lines are synonymous with setback lines and outline the buildable area of a lot which remains after the required yard areas have been provided for. Building lines shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by ordinance. Such building lines shall not be less than required by the Zoning Ordinance. Where the subdivided area is not under zoning control, the Commission shall require building lines in accordance with the needs of each addition.

4. "Collector streets" means those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

5. "Commission" means the Planning and Zoning Commission of Cresco, Iowa.

6. "Cul-de-sac" means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

7. "District" means a section or sections of land area, depicted on the Official Zoning Map, within which the regulations governing the use of buildings and premises or the height of buildings and area of sites are uniform.

8. "Easement" means a grant by the property owner of the use for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.

9. "Engineer" means a registered engineer authorized to practice civil engineering, as defined by the Registration Act of the State of Iowa.

10. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

11. "Major thoroughfare" means a street used primarily for fast, intense volume, mixed vehicular, through traffic.

12. "Marginal access street" means a street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic, while limiting access to the major thoroughfare.

13. "Minor street" means a street used primarily for access to the abutting properties.

14. "Performance bond" means a surety bond or cash deposit made out to the City of Cresco in an amount equal to the full cost of the improvements that are required by this chapter, said cost being estimated by the City Engineer, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with this chapter.

15. "Plat" means a map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval and intends to record in final form.

16. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

17. "Street" means the entire width between the property lines bounded every way of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic and others, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise designated.

18. "Subdivider" means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein, and includes any agent of the subdivider.

19. "Subdivision" means the division of land into three (3) or more lots or other divisions of land for the purpose, whether immediate or future of transfer of ownership or building development; or, any change in existing street lines or public easements. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

20. "Surveyor" means a registered Surveyor authorized to practice surveying as defined by the Registration Act of the State of Iowa.

170.04 PROCEDURE. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat and a final plat in accordance with the following:

1. The subdivider shall first prepare and file with the City Clerk four (4) copies of a preliminary plat conforming in detail to the requirements set forth in this chapter. Six (6) copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City.

2. The City Clerk shall forthwith refer two (2) copies to the City Engineer and two (2) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the City Clerk shall refer two (2) copies of the preliminary plat to the County Board of Supervisors and keep the County Engineer advised of the status of the plat and actions taken thereon.

3. The City Engineer shall carefully examine said plat as to its compliance with the laws and ordinances of the City, the existing street system, and good engineering practices, and shall as soon as possible, submit findings in duplicate to the Commission.

4. The Commission shall upon receiving the Engineer's report as soon as possible consider said report and tentatively pass upon the plat. It shall then set forth its recommendations in writing whether of approval, modification, or disapproval. In case of modifications or disapproval, it shall give its reasons therefor. The Commission shall forthwith return one copy of the approved preliminary plat to the subdivider.

5. Upon approval of the preliminary plat by the Commission, the subdivider may proceed with the preparation of the final plat together with any detailed construction drawings and specifications for the improvements required under this chapter.

6. Upon tentative approval by the Council to said plat, the subdivider shall then file a final plat with the City Clerk in accordance with the Statutes of the State of Iowa.

7. Before submitting the final plat to the Commission for approval, the subdivider shall furnish all plans and information as listed in Section 170.07 of this chapter necessary for the detailed engineering consideration of the improvements required under this chapter and obtain approval of the City Engineer, which shall be endorsed thereon.

21. The final plat shall be filed in duplicate together with a certificate from the City Engineer that the final plat is substantially in accord with the preliminary plat as approved by the Commission.

22. For the final plat approval, the subdivider shall submit to the Commission:

A. Final plat filed in duplicate.

B. Performance bond in the amount approved by the City Engineer if improvements have not been completed.

C. One copy of the certified approved plans, profiles, cross sections, and specifications.

D. A certificate from the City Engineer that the final plat is substantially in accord with the preliminary plat as approved by the Commission.

23. The Commission shall then consider the final plat and if the same is approved shall submit their recommendation of approval to the City Council together with a certified copy of their resolution showing the action of the Commission.

24. The City Council shall then consider the plat and if the same is acceptable and in accordance with this chapter, the Council shall accept the same. If said plat is disapproved by the Council, such disapproval shall point out in writing wherein said proposed plat is objectionable.

25. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Howard County, Iowa, as provided in Chapter 354, *Code of Iowa*, and amendatory acts thereto and shall file satisfactory evidence of such recording in office of the City Clerk before the City shall recognize the plat as being in full force and effect.

170.05 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances; however, in the design and development of a plat, the subdivider should use standards consistent with the site conditions as to assure an economical, pleasant and durable neighborhood.

1. Blocks.

A. No block shall be longer than 1,320 feet, except as approved by the Commission.

B. At street intersections, block corners shall be rounded with a radius of not less than 20 feet, where, at any one intersection a curve radius has been previously established, such radius shall be used as standard.

2. Buffers.

A. A Buffer Wall. Such shall be not less than six feet in height; constructed of a permanent low maintenance material such as concrete block, cinder block, brick, concrete, precast concrete, tile block, etc.; the wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; the use of weather resistant wood, metal or manufactured substitutes may be used as an accessory material for aesthetic quality.

B. A Buffer Park. Such park shall be not less than 60 feet in width; designed and landscaped by a qualified architect, engineer, or landscape architect; predominant planting shall be of evergreen type trees, shrubs, and plants so as to assure year-round effectiveness; density and height of planting shall be adequate to serve as a solid and impenetrable screen.

3. Easements. Easements for utilities, of not less than 20 feet in width shall be provided along rear or side lot lines or along alleys if needed. Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provision for straightening or widening the channel so it will properly carry the surface water, and shall provide and dedicate to the City an easement along each side of the stream. Such easements shall be for the purpose of widening, improving, maintenance or protecting the stream.

The width of such easements shall be not less than 20 feet each, plus the stream design width, and the total width of the easement shall be adequate to provide for any necessary channel straightening or relocation.

4. Improvements. The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with plans and specifications, under the supervision of the designing engineer, and approved by the City Engineer.

A. Curb and Gutter. The curb and gutter shall be constructed to the grade and specifications approved by the City Council after receiving the report and recommendation of the City Engineer via the Commission. Curb and gutter shall be required to be constructed by the subdivider when the development phase becomes active.

B. Drainage. All subdivisions shall include storm drainage plans for the positive removal of storm waters. Such plans shall be prepared by a registered engineer and approved by the City Engineer. The following criteria shall be considered minimum standards:

(1) Run-off for street and limited area drainage shall be determined by the rational method.

(2) Area run-off shall be determined by a suitable empirical formula.

(3) Storm frequency chart for determination of rainfall intensity and duration, shall be not less than 10 years.

(4) The system shall be designed with the use of materials, flow velocities and sizes, so as to assure long life, low maintenance and self-cleaning of the drainage facilities. Storm sewers less than 15 inches inside diameter must be approved by the City Engineer.

(5) Underground storm drainage facilities shall be located to comply with the *Typical Standards for Utility Locations within Public Right-of-Ways* shown on Sketch No. 1 at the end of this chapter.

(6) Storm water drainage shall not be required to be constructed by the subdivider when lots are subdivided; however, at the time when the subdivider is required by the City to construct a street to the grade designated and approved by the City Engineer, the subdivider shall provide and install at subdivider's expense storm water drainage lines (pipes) along the edge of the street. The storm water lines (pipes) shall be capped until such time as the surface intake drains are installed and connected to the storm water lines (pipes) and until the street is paved with concrete or asphalt. The intake drains shall be installed at intervals along the edge of the street, as determined by the City Engineer, where the grade is less than a 2% grade. The City shall have the right to assess any part or all of the surface intake drains to the adjoining property owners as provided by either the *Code of Iowa* or this Code of Ordinances. The costs of installing the storm sewer lines (pipes) shall be paid by the subdivider.

C. Gas. Gas mains shall be installed underground and located to comply with the *Typical Standards for Utility Locations Within Public Right-of-Ways* shown on Sketch No. 1 of this chapter.

D. Street Construction. The subdivider shall be required to construct a street of Class C Aggregate to the grade and specifications designed by a registered engineer hired and paid for by the subdivider. The plans of the designed street by the subdivider's engineer shall be approved by the City Engineer in writing prior to construction. The City reserves the right to specify the width and/or design of the street taking into consideration the nature and composition of the neighborhood, the width and design of surrounding streets, the City's comprehensive plan and such other criteria as the City deems appropriate. When the street has been constructed by the subdivider and approved in writing by the City Engineer, then title to the street shall be conveyed by Warranty Deed or by dedication to the City by the subdivider, free of any liens or encumbrance. Upon 80 percent of the development completion or 5 years from the time of final plat acceptance, whichever comes first, the City will install a concrete road with 100 percent of the expense being assessed to the property owner. The assessment will be over a 10-year period by the City at a percentage rate that the City deems necessary.

E. Sidewalks. Sidewalks may be required by the City Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the City Council after receiving the report and recommendation of the City Engineer.

F. Sewer. The City Council may require each subdivider to provide each lot a connection to public sanitary sewer. Further, where the existing sewer may be reasonably extended through the subdivision so as to provide for continuous future development, such provisions shall be made. Such sanitary sewers shall be located in the center or the street or on public easement as approved by City Council and all house laterals shall be installed to the right-of-way line prior to paving of the street. Sanitary sewers shall have a minimum diameter of eight inches and be made available to each lot. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be in accordance with the State Board of Health. The Designing Engineer shall furnish the City with three (3) certified copies of as-built plans and certify that the facilities have been installed in accordance with the plans and specifications. As-built plans shall specifically show service line stub locations.

G. Utility Cables. Overhead or underground cables shall be located to comply with the *Typical Standards for Utility Locations Within Public Right-of-Ways*, shown on Sketch No. 1 and the end of this chapter, or shall be placed at the back lot lines within the area of perpetual easement.

H. Water Lines and Hydrants. Where a public water main is accessible, the Council may require that the subdivider connect with such water main and provide a water connection. Hydrants must comply with City policy and be approved by the Superintendent of the Water Department before installation. Water mains shall have a minimum diameter of six (6) inches with larger

sizes for feeder mains. Water mains shall be located to comply with the *Typical Standards for Utility Locations Within Public Right-of-Ways*, shown on Sketch No. 1 at the end of this chapter, or shall be placed at the back lot lines within the area of perpetual easement, with a minimum cover of 66 inches. Water lines shall be available to each lot, and such service lines shall be installed prior to paving of the street. The designing engineer shall furnish the City with three (3) certified copies of as-built plans and certify that the facilities have been installed in accordance with the plans and specifications. As-built plans shall specifically show service line stub locations and fire hydrant locations.

Before the City Council approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other requirements and agreements between the subdivider and the City. This requirement may be waived if the subdivider will post a performance bond or certified check with the City guaranteeing that said improvements will be constructed within a period of one year from final acceptance of the plat; however, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City. If a performance bond is posted, such bond shall be subject to review by the City Attorney prior to acceptance; shall specifically assure the expedient installation and completion of all improvements within the specified construction time period; and shall indemnify the City from any and all costs or losses of the development and construction. The Council may waive the requirements for the construction and installation of some or all of the foregoing improvements in cases of resubdivision where only the size, shape, and arrangement of the lots is being changed and no new streets are required and in cases of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation proceeding. The City shall not be obligated to consider the costs of paving a street with either concrete or asphalt and the installation of surface intake drainage connected to the subsurface storm water lines until such time as 80 percent of the lots have been sold and new houses have been constructed on all of the said 80 percent sold lots.

5. Lots.

A. Corner lots shall be not less than 20 feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.

B. Double frontage lots other than corner lots, shall be prohibited except where such lots back on to a major street or highway or except in the case of large commercial or industrial lots. Such double frontage lots shall be buffered from the rear street frontage by the methods outlined in 170.05, subsection 2 of this chapter. Ingress-egress shall be limited to the frontage street and is strictly prohibited on the rear street.

C. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.

D. Each lot shall be provided with not less than 20 feet of access frontage to a public street.

E. No residential lot shall be less than the minimum width and area required by the Zoning District in which the lot is located.

F. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:

(1) Lots that cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of 100 feet, measured at the building line, and an area of not less than 20,000 square feet or the minimum permitted by the Zoning Ordinance, whichever is the larger.

(2) Lots that are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of 80 feet and an area of 10,000 square feet or the minimum permitted by the Zoning Ordinance, whichever is the larger.

G. Side lot lines where possible, shall be at right angles or radial to the street lines.

6. Monuments. Monuments shall be placed at block corner, point of curves, change in direction along lot lines and at each lot corner in accordance with City specifications.

7. Streets and Right-of-Ways.

A. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.

B. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead ended, an interim turnaround may be required.

C. Comprehensive Plan. All proposed plats and subdivisions shall conform to the Comprehensive Plan.

D. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width, but not less than 60 feet in width, and in similar alignment, unless variations are recommended by the Commission.

E. Cul-de-Sac. Whenever a cul-de-sac is permitted, such street shall comply with the minimum requirements set forth on Sketch No. 2 at the end of this chapter as applicable.

F. Dedication. A deed to the City shall be given for all streets before the same will be accepted for City maintenance.

G. Half Streets. No half streets shall be acceptable.

H. Land Not Platted. Where the plat to be submitted includes only part of the tract owned by the subdivider, the Commission may require topography and a master plan of the entire tract of land under ownership, mortgage purchase option or other agreements for deed.

I. Major Thoroughfares. When a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, the street layout shall provide motor access to such frontage by one of the following means:

(1) A parallel street supplying frontage for lots backing on to the traffic way.

(2) A series of cul-de-sac or short loops entered from and planned at right angles to such a parallel street, with their terminal lots backing on to the highways.

(3) An access drive separated by a planting strip from the highway to which a motor access from the drive is provided at points suitably spaced.

(4) A service drive or alley at the rear of the lots. Where any one of the above mentioned arrangements is used, deed covenants or other means should prevent any private residential driveways from having direct access to the traffic way.

J. Neighborhood Plan. If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

K. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas and other natural features which would lend themselves to attractive treatment.

L. Railroads. If a railroad is involved, the subdivision plat should:

(1) Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad.

(2) Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to back on to railroad; or form a buffer strip for park, commercial or industrial use.

(3) Provide cul-de-sacs at right angles to the railroad so as to permit lots to back onto the same.

M. Street Grades. Streets and alleys shall be completed to grades which have been officially determined or approved by the City Engineer. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for main and secondary thoroughfares, or ten percent for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length equivalent to 20 times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City Engineer; for secondary and minor streets, 15 times. The grade alignment and

resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the City Engineer.

N. Street Intersections. Street curb intersections shall be rounded by radii of at least 20 feet. Streets should be laid out to intersect at right angles, and may be curved approaching the intersection in order to bring this about; no street shall intersect any other street at an angle more than five (5) degrees off right angle unless approved by the City Engineer.

O. Street Names. All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

P. Street Widths. Streets shall have a width and cross-section as shown in the Comprehensive Plan for the type of street involved.

170.06 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat of a subdivision is not intended to serve as a record plat and shall be submitted for review separately and prior to submission of the Final Plat. Its purpose is to show on a map all facts needed to enable the Commission to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The subdivider or representative of the subdivider may call at the office of the Commission in advance of the preliminary plat in order to discuss the proposed subdivision and in order to obtain information as to the requirements necessary for approval of the plat.

1. Number of Copies and Scale. As required under Section 170.04 of this chapter, four or six copies of the preliminary plat shall be submitted as prescribed for review. The scale of the map shall be one inch equals 50 feet on small subdivisions and one inch equals 100 feet on large subdivisions unless otherwise approved by the Commission.

2. Contents of Preliminary Plat.

A. Areas dedicated for public use, such as schools, parks, playgrounds and streets.

B. Boundaries of the proposed subdivision shall be labeled and indicated by a heavy line.

C. Building setback lines for frontage and side streets.

D. Buffer easement and method where required.

E. Contour lines at intervals of not more than five feet.

F. Corner radii.

G. Easements for public utility purposes.

H. Existing buildings, railroads, underground utilities, other rights-of-way and easements.

I. Location and names of adjoining subdivisions.

J. Location, names and widths of all existing and proposed roads, alleys, streets, and highway in or adjoining the area being subdivided.

K. Lot areas (approximate) of all non-rectangular lots and the area of smallest rectangular lot.

L. Lot numbers.

M. Name and address of Engineer and Surveyor.

N. Name and address of recorded owner and/or developer.

O. Name of subdivision, date, compass point, scale and official description and acreage of the property being platted.

P. Proposed lot lines with approximate dimensions.

Q. Proposed utility service.

(1) Source of water supply.

(2) Provision for sewage disposal, drainage and flood control.

3. Accompanying Material.

A. An abstractor's title together with an attorney's opinion, in duplicate, showing that the fee title to the subdivision is in the owner as shown on the plat and showing any encumbrances that may exist against said land.

B. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the Engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the City Engineer.

C. Restrictions proposed, if any, to be included in the owner's dedication of the plat.

D. Written statement of the appropriate officials of the availability of gas and electricity to the proposed subdivision.

E. Written and signed statements explaining how and when the subdivider proposes to provide and install all required improvements required by this chapter. Such statement shall acknowledge required inspections and approvals by City Engineer.

170.07 FINAL PLAT REQUIREMENTS.

1. Number of Copies and Scale. When and if the preliminary plat is approved, the subdivider shall submit six (6) copies of the final plat for review by the Commission. The scale of the map shall be one inch equals 100 feet on large subdivisions, unless otherwise approved by the Commission.

2. Contents of Final Plat. The Final Plat shall be drawn in India ink on reproducible linen or Mylar film on an 18-inch by 24-inch or 24-inch by 36-inch sheet size with a border line allowing a three-inch binding margin along left hand narrow width and a one-half-inch margin on the remaining narrow width and two long sides. The following information shall be shown on the plat.

A. Block lines shall be designated by heavy solid lines.

B. Block corners shall be shown rounded by appropriate radius with arc length (A=), chord (ch=), central angle (Δ=), radius (R=), and tangent (T=) shown.

C. Boundary lines shall be designated by a heavy line of long dash two dots, etc., and labeled "Plat Boundary."

(1) Boundary dimensions form angle point to angle point shall be shown for all sides of the closed traverse.

(2) Bearings, based on an assumed meridian approximately north of all boundary lines or internal angles of all angle points on the boundary shall be shown.

D. Building setback lines for frontage and side streets shall be designated by a fine short dashed line, labeled "Building Setback Line" and dimensioned.

E. Centerlines of all street right-of-ways shall be designated by a fine line of long dash-short dash or dot, etc., and dimensions from angle point to angle point, point of curvature to point of tangency, intersection to intersection, or any combination thereof between intersections with the appropriate bearings, angles, curve data, right-of-way widths, and distances clearly shown. Curve data shall include arc length (A=), chord (ch=), central angle (Δ=), radius (R=), and tangent (T=). All points of curvature (P.C.), and points of tangency (P.T.) shall be located and labeled.

F. Certification by a registered engineer and/or land surveyor in accordance with the State law.

G. Easements for public utilities and drainage facilities shall be designated by fine line of medium length dashes, and appropriately labeled with reserved width and type of easement.

H. Fractional lines and corners of the Government Township and Section surveys shall be appropriately labeled and dimensioned as applicable to the plat. All plat boundaries shall be tied to known Section or fractional corners by distance and bearing or angle.

I. Legal description of the platted area shall be included on the plat.

J. Lot lines shall be designated by medium fine solid lines.

K. Lots shall be numbered consecutively, all sides dimensioned. The bearings or corner angles of all lot lines that are not parallel to the block lines shall be shown and lines intersecting a curved line shall be labeled as radial or not radial, whichever is applicable. Dimensions of lot lines that are curved shall include appropriate curve data: arc length (A=), chord (ch=), central angle (Δ=); where the radius is not shown elsewhere it shall be shown. The area of all non-rectangular lots shall be shown to the nearest 100 square feet.

L. Permanent reference monuments shall be labeled (P.R.M.) and located.

M. Scale shall be indicated graphically as the scale in feet along with the compass point.

N. Street names, location, lot designation and right-of-way width for all streets within or abutting the plat shall be shown.

O. Surveyor's notes shall include the following as appropriate or applicable to the particular plat.

(1) All bearings are based on an assumed meridian for computation purposes.

(2) Block corner radii are 25 feet unless noted otherwise.

(3) Dashed lines shown at the rear or sides of certain lots are "easements" reserved for the installation and maintenance of public utilities and drainage facilities.

(4) Any other notes deemed necessary for the particular plat.

3. Accompanying Material.

A. A deed to the City properly executed for all streets intended as public streets and for any other property intended for public use.

B. Any protective covenants or restrictions to be imposed upon the plat shall be submitted for approval.

C. The following attachments:

(1) 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.

(2) 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.

(3) 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.

(4) 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*.

(5) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

4. Plans, Profiles and Cross Sections. As required in Section 170.04 of this chapter, the subdivider shall submit to the City Engineer the following plans and profiles drawn to a minimum horizontal scale of one inch to 40 feet, and a minimum vertical scale of one inch to 50 feet and cross sections drawn to a minimum horizontal scale of one inch to 10 feet and a minimum vertical scale of one inch to five feet and specifications for the construction of the improvements for the subdivision as required in Section 170.05 of this chapter.

A. The plan and profile of each street with tentative grades and street intersection elevations.

B. The plan and profile of proposed sanitary sewers and storm water sewers with grades and pipe sizes indicated and a plan of the proposed water distribution system showing pipe sizes and locations of valves and fire hydrants.

C. The cross sections of proposed streets showing the width of roadways, present and proposed grade lines, and location and size of utility mains. The cross sections shall be taken and platted at intervals of not more than 50 feet along the center line and shall extend out to the sides to that point where the proposed grade intersects the existing grade. In no case shall these cross sections be extended less than the full width of the right-of-way.

D. Specifications for the required improvements. Standard specifications approved by the City Engineer may be used.

E. Certified as-built plans of all installed improvements.

5. Recording Plat:

A. There shall be three copies stamped as approved by the Council.

(1) One copy shall be retained for file by the Clerk.

(2) One copy shall be filed with the County Recorder.

(3) One copy with accompanying resolution by the City Council approving and accepting the plat shall be filed with the County Auditor. This copy must be accompanied by a certificate by the owner and spouse, if any, that the subdivision is with the free consent and is in accordance with the desire of the owners. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

170.08 FEES. Any person requesting to be heard by the Commission shall pay a fee as referenced in Section 23.06 of this Code of Ordinances.

170.09 VARIATIONS AND EXCEPTIONS. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these subdivision regulations would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the City Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided that such variance, modifications, or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than a minimum easing

of the requirements and in no instance shall it be in conflict with any Zoning Ordinance such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the City Council.

170.10 ENFORCEMENT.

1. No plat or any subdivision shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.

2. The City Council shall not permit any public improvements over which it has control to be made from City funds or any City money expended for improvements or maintenance on any street in any area that has been subdivided after the date of adoption of these regulations unless such subdivision and improvements have been approved in accordance with the provisions contained herein and accepted by the City Council as a public street.

170.11 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the City Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least 15 days prior to such hearing.

170.12 ALL PLATS INVOLVING THE SUBDIVISION MUST BE APPROVED. All plats of a subdivision as defined herein must be approved by the Commission and the Council. The subdivider shall provide and stub in all utilities on each lot or division of land including, but not limited to, sanitary sewer, water, telephone, natural gas, electricity and cable television prior to approval of the final plat of subdivision. Contractor must call City to inspect all trenches before trenches are backfilled. No subdivision shall be given final approval until all requirements of this Code of Ordinances and the *Code of Iowa* have been met.

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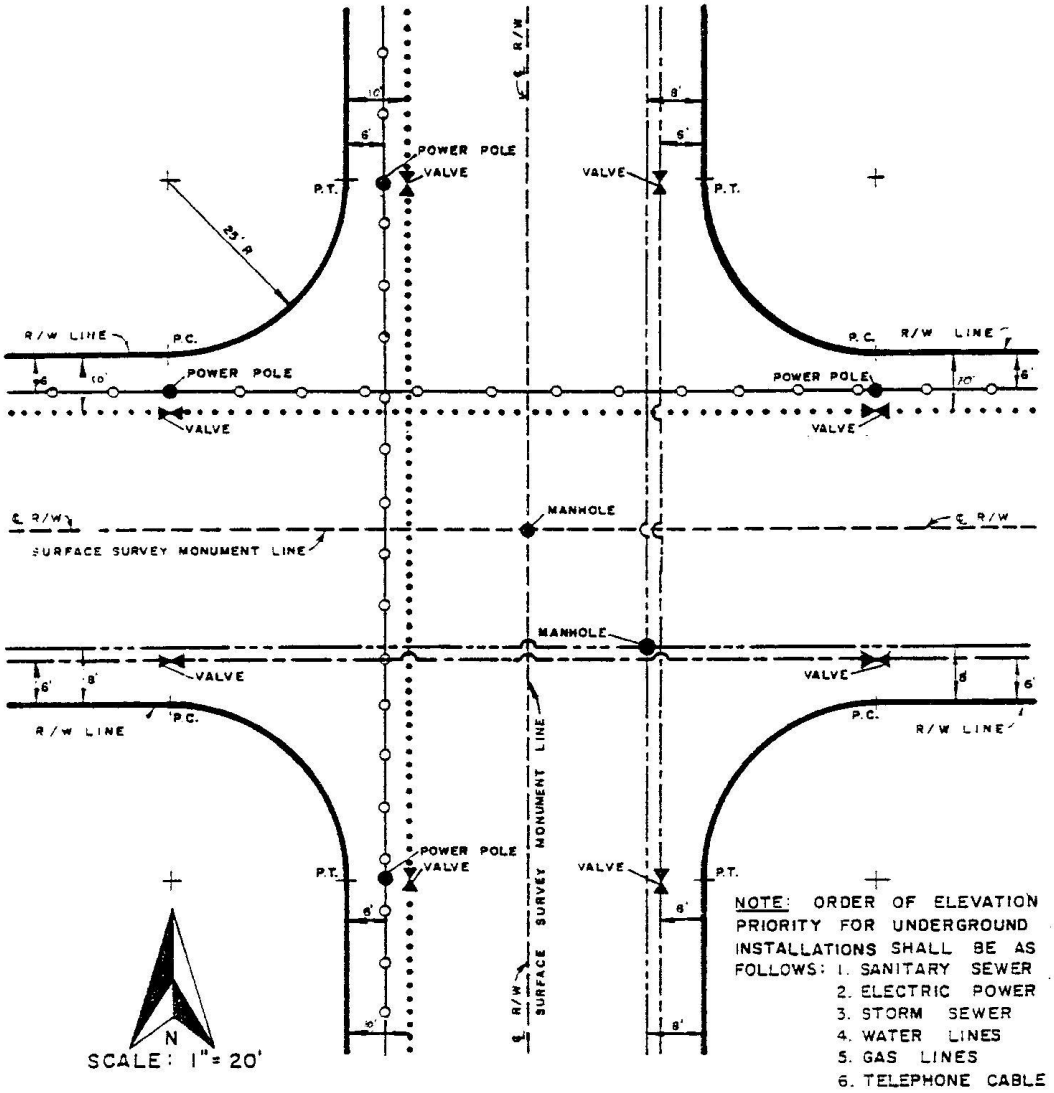
Sketch No. 1



TYPICAL STANDARDS FOR UTILITY LOCATIONS WITHIN PUBLIC RIGHT-OF-WAYS

LEGEND

- DENOTES SANITARY SEWER (UNDERGROUND)
- DENOTES WATER LINE (UNDERGROUND)
- DENOTES GAS LINE (UNDERGOUND)
- DENOTES STORM SEWER (UNDERGROUND)
- DENOTES TELEPHONE & POWER LINES (ABOVE OR UNDERGROUND)

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Sketch No. 2

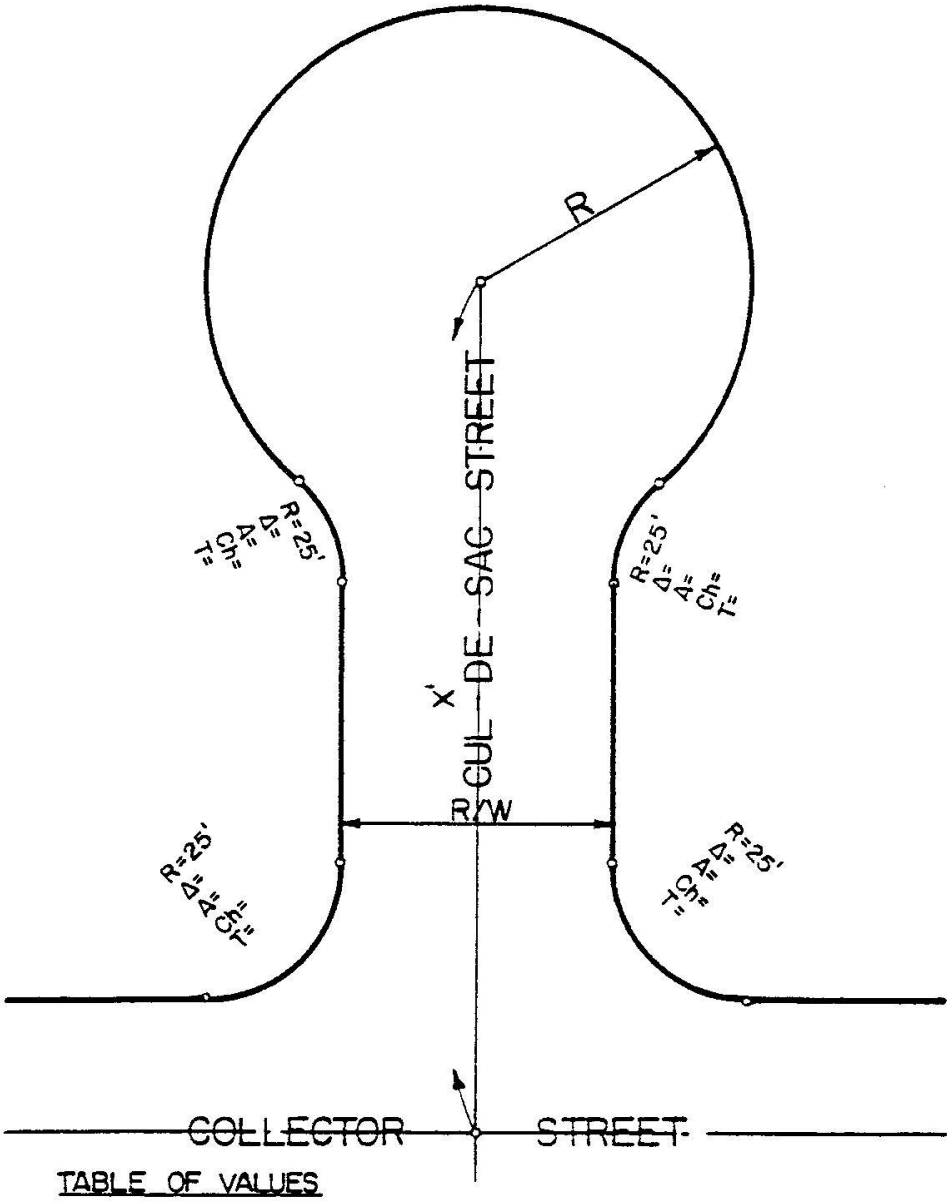

TABLE OF VALUES

LENGTH OF X	RESIDENTIAL USE		COMMERCIAL-INDUSTRIAL USE	
	R	R/W	R	R/W
0 - 350 FEET	50 FEET	50 FEET	85 FEET	60 FEET
351 - 600 FEET	85 FEET	60 FEET	85 FEET	60 FEET

STANDARDS
FOR
NORMAL CUL-DE-SAC
RIGHT-OF-WAY

[The next page is 1001]

CHAPTER 175

AIRPORT ZONING REGULATIONS

175.01 Intent
175.02 Short Title
175.03 Definitions
175.04 Zones
175.05 Height Limitations
175.06 Use Restrictions
175.07 Nonconforming Uses
175.08 Marking and Lighting
175.09 Permit Required
175.10 Permit Exemption
175.11 Permit Conditions
175.12 Appeals
175.13 Judicial Review
175.14 Conflicting Regulations

175.01 INTENT. This chapter is adopted pursuant to the authority conferred by Chapters 329 and 414 of the *Code of Iowa*. It is hereby found that an airport hazard endangers the lives and property of users of the Cresco Municipal Airport and of occupants of land or to property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Cresco Municipal Airport and the public investment therein. Accordingly, it is declared that: (i) the creation or establishment of an airport hazard is a public nuisance and an injury to the area served by the Cresco Municipal Airport; (ii) it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented; and (iii) the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which municipalities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

175.02 SHORT TITLE. This chapter shall be known and may be cited as "The Cresco Municipal Airport Zoning Ordinance."

175.03 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Cresco Municipal Airport.

2. "Airport elevation" means the established elevation of the highest point on the usable landing area.

3. "Airport hazard" means any structure or tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

4. "Airport reference point" means the point established as the approximate geographic center of the airport landing area and so designated.

5. "Board of adjustment" means a board consisting of five (5) members appointed by the Cresco City Council and the Howard County Board of Supervisors.

6. "Height" for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

7. "Instrument runway" means a runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

8. "Landing area" means the area of the airport used for the landing, taking off or taxiing of aircraft.

9. "Landing strip" means the grass or turf covered area of the airport which is designed for and used for taking off and landing aircraft. This term shall have the same meaning throughout this chapter, as does the term "runway."

10. "Nonconforming use" means any pre-existing structure, tree, natural growth or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

11. "Non-instrument runway" means a runway other than an instrument runway.

12. "Runway" means the paved surface of an airport landing strip.

13. "Structure" means an object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structure supporting the same.

14. "Tree" means any object of natural growth.

175.04 ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones that include all of the land lying within the non-instrument approach zones, vertical zones, horizontal zone and conical zone. Such areas and zones are shown on the Cresco Municipal Airport Zoning Map. The various zones are hereby established and defined as follows:

1. Primary Surfaces. A primary surface zone is established, which shall be provided longitudinally on each runway extending in length 100 feet beyond each end of the two runways. The elevation of any point on the longitudinal profile of the primary surfaces, including extensions, coincides with the elevation of the centerline of runways, or extension, as appropriate. The width of the primary surfaces is 200 feet, centered upon each runway.

2. Approach Zones. An approach zone shall be provided and shall have a width of 200 feet at a distance of 100 feet beyond each end of the two runways widening thereafter uniformly to a width of 500 feet at a distance of 3,100 feet beyond each end of the two runways.

3. Vertical Zone. A vertical zone shall extend upward from the edges of the primary zones and the approach zones until they intersect with the horizontal zone.

4. Horizontal Zone. A horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of 5,000 feet. The horizontal zone does not include the approach zones and the vertical zone.

5. Conical Zone. A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of 3,000 feet. The conical zone does not include the approach zones and vertical zones.

175.05 HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone referenced by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. Airport Approach Zones. One foot in height for each 20 feet in horizontal distance beginning at a point 100 feet from and at the centerline elevation of the end of the runway and extending to a point 3,100 feet from the end of the runway.

2. Vertical Zones. A vertical zone beginning at any point normal to and at the elevation of the centerline of the runways, extending 100 feet beyond each end thereof, extending upward to the horizontal zone from the outer edges of the primary surfaces to a height of 150 feet above the airport elevation, said height being 1,425.5 feet above mean sea level. In addition to the foregoing, there are established height limits vertically from the edges of all approach zones for the entire length of the approach zones and extending upward to the points where they intersect the horizontal zone.

3. Horizontal Zone. One hundred fifty (150) feet above the airport elevation or a height of 1,425.5 feet above mean sea level.

4. Conical Zone. One foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of 300 feet above the airport elevation.

Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

175.06 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land within any zone referenced in this chapter in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft.

175.07 NONCONFORMING USES. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified by this chapter or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified by this chapter and is diligently prosecuted.

175.08 MARKING AND LIGHTING. Notwithstanding the provision of Section 175.07, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City.

175.09 PERMIT REQUIRED. Except as specifically provided in Section 175.10 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit

therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

175.10 PERMIT EXEMPTION. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone. Nothing contained in the foregoing exception shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this chapter except as set forth in Section 175.05.

175.11 PERMIT CONDITIONS.

1. Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of the ordinance codified by this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

2. Nonconforming Uses Abandoned or Destroyed. Whenever the Cresco Airport Commission determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

3. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the Airport Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

4. Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

It shall be the duty of the Cresco Zoning Officer to administer and enforce the regulations prescribed herein. Said officer to be hereafter referred to as the Administrative Officer. Applications for permits and variances shall be made to the Administrative Officer upon a form furnished by the officer. Applications required by this chapter to be submitted to the Administrative Officer shall be promptly considered and granted or denied by the officer. Applications for action by the Airport Commission shall be forthwith transmitted by the Administrative Officer.

175.12 APPEALS. Any person aggrieved, or any taxpayer affected, by any decision of the Administrative Officer made in the administration of this chapter, may appeal to the Airport

Commission. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Airport Commission, by filing with the Administrative Officer a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Airport Commission all papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrative Officer certifies to the Airport Commission, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the Administrative Officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Commission on notice to the Administrative Officer and on due cause shown. The Airport Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. The Airport Commission may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

175.13 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Chapter 414.15 of the *Code of Iowa*.

175.14 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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