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ADOPTION ORDINANCE

ORDINANCE NO. 2016-01

AN ORDINANCE ADOPTING THE "CITY CODE OF THE CITY OF PAULLINA, IOWA, 2016."

SECTION 1. Purpose. The purpose of this adopting Ordinance is to enable the City of Paullina, Iowa, to comply with the provisions of Section 362.3 and 380.8, The Code of Iowa.

SECTION 2. Adoption. The City of Paullina, Iowa, hereby adopts the 2016 Code of Ordinances for the City of Paullina, Iowa, pursuant to published notice and following public hearing on July 18, 2016, so required by Sections 362.3 and 380.8, The Code of Iowa.

SECTION 3. Content. All ordinances or parts thereof in force on, (PUBLICATION DATE) and not contained in the "City Code of the City of Paullina, Iowa, 2016," are hereby repealed from and after (DATE), except as hereinafter provided.

That the repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before (DATE); nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authoring the issuance of any bonds of said City or any evidence of said city's indebtedness or any contract or obligation assumed by resolutions of the Council not in conflict or inconsistent with the provisions of the "The City Code of the City of Paullina, Iowa, 2016;" nor shall it affect the following ordinances specifically saved from repeal:

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>	<u>SUBJECT</u>
----------------------	----------------	----------------

NONE

nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any ordinance naming, establishing, relocation and vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance levying and imposing taxes; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suite or other proceeding pending or any judgement rendered on or prior to the August 18, 2016.

The 2016 Code of Ordinances shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

If the Code of Ordinances includes an ordinance which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10, The Code of Iowa, the City Clerk shall also keep on file, with the official copy of the City Code, a copy of such standard code.

SECTION 4. Format. The 2016 Code of Ordinances of the City of Paullina, Iowa, shall be compiled in loose-leaf format.

SECTION 5. Official Copy. The City Clerk shall be responsible for the compilation, organization, and maintenance of the official 2016 Code of Ordinances of the City of Paullina, Iowa, and shall be keep the official copy on file in the office of the City Clerk.

SECTION 6. Public Copies. Additional copies of the 2016 Code of Ordinance shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the 2016 Code of Ordinances shall be kept on file in the City Clerk's office for public inspection.

SECTION 7. Additional Ordinances. All ordinances, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the 2016 Code of Ordinances. This section does not apply to grade ordinances, bond ordinances, zoning ordinances, naming streets and vacating streets and alleys.

SECTION 8. Effective Date. This Ordinance, after its passage and publication, as required by law, shall be effective as of the August 18, 2016

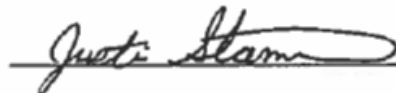
Councilperson Harper motioned that the proposed Ordinance by passed and adopted as Ordinance No. 2016-01 Councilperson Ihle seconded the motion.

The question regarding passage and adoption of the proposed Ordinance was put to the Council by the Mayor, the Clerk called the roll and the vote was as follows:

Ayes; Ihle, Harper, Jones, Werkmeister, Fisher

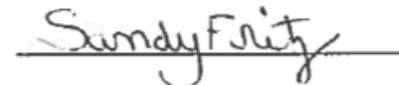
Nays ; None Absent; None

HEREUPON, the Mayor announced the vote and declared that the Ordinance was duly adopted by the Council on August 1, 2016.



Justin Stamer, Mayor

Attest:



Sandy Fritz, City Clerk

CERTIFICATE

(STATE OF IOWA)

SS

(O'BRIEN COUNTY)

I hereby certify that the following was published as ordinance 2016-01 in the City of Paullina, Iowa on August 18, 2016

Signed Sandy Fritz
Sandy Fritz, City Clerk

© CityofPaullina.com

ADOPTION ORDINANCE PROOF OF PUBLICATION

Proof of Publication

State of Iowa
County of Dubuque ss.

Richard R. Radtke/Mari E. Radtke, Being first duly sworn, deposes and says he/she is the Publisher of The Pullinia Times

a Weekly legal newspaper having a bona fide circulation of more than 300 copies published in Pullinia

Iowa; and said newspaper has been published for at least 52 consecutive weeks prior to publication of attached notice; that said publication is of general circulation; that attached notice was published 1 time(s) on August 18, 2016

Mari E. Radtke
(signature)

Subscribed to in my presence and sworn to before me this 19 day of August, 2016

[Signature]
Notary Public
RICHARD R RADTKE
Commission Number 792085
MY COMMISSION EXPIRES
SEPTEMBER 15, 2018

Publication Fee \$ 219.50

City Council Meeting City Hall - Paulina, Iowa August 1, 2018	parts & supplies	\$290.00
A regular meeting was called to order this date by Mayor Justin Bremer. Roll call was answered by Council Members Charles Harper, Justin Fisher, John Irie, Dennis Wertheimer and Jay Jones; Superintendent of Utilities Shawn Strubbe, and Chief of Police Nathan Bremer. Also present: Khwamba Ngaleka, Laura Nelson, Brian Cates - Iowa Dot, Gary Kurth - DGR, Brad Beck - BEI, Neil Guesz - Bolton & Mark, Mitchell Wastel - V & K, Brian Flach and Brent Notebook. City Clerk Sandy Fritz was absent.	Wellmark	\$8,244.48
The following proceedings were had, to-wit: Wertheimer moved and Irie seconded the motion to approve the agenda for the August 1, 2018 regular meeting. Motion carried by all eyes.	health ins	\$250.00
Wertheimer moved and Fischer seconded the motion to approve the minutes of the July 6th and 18th regular meetings and the July 21, 2018 special meeting. Motion carried by all eyes.	Wilson, J	\$40.00
Fisher moved and Wertheimer seconded the motion to approve the Claims List for the month of July 2018. Motion carried by all eyes.	deposit refund	\$163,810.12
A & M Laundry, supplies	Window Washer	Revenue and Expense Report - July 2018
Acop	GENERAL FUND	Expenses
Chlorine	GENERAL FUND	\$79,023.58
Altec	ROAD USE TAX FUND	\$31,717.42
July	ROAD USE TAX FUND	\$9,827.78
Airgas,	LOCAL OPTION SALES TAX	\$10,104.86
cylinder rent	DEBT SERVICE FUND	\$8,084.19
Automatic System,	MAPLE STREET PROJECT	\$120,283.77
control repair - water	WATER FUND	\$19,844.07
Aerials,	SEWER FUND	\$17,801.48
vision ins.	ELECTRIC FUND	\$12,120.54
Berco,	ELECTRIC FUND	\$95,054.39
signs	TELECOM	\$144,899.03
Black Hills,	TELECOM	\$7,781.26
Natural gas	EMPLOYEE BENEFITS	\$0
Builder's Sharpening,	EMPLOYEE BENEFITS	\$3,884.88
finance charge	BUSINESS PARK	\$0
Canvas	BUSINESS PARK	\$10,254.95
fuel Jane	\$0	\$0
Century Business,	EMERGENCY	\$0
copier lease	EMERGENCY	\$102.80
Certified Testing,	IOWA STATE PROJECT	\$0
Maple Street	IOWA STATE PROJECT	\$0
Christensen, Dana,	WEST LOT	\$0
stamp removal	WEST LOT	\$0
City of Paulina,	TOTAL	\$399,289.31
payroll	TOTAL	\$193,379.20
City of Paulina,	INCURES FROM THE	Brent Notebook
transfers	discussed how to proceed with the	AUDIENCE
City of Paulina,	No reports	Fire Departments budget.
Electric	The following engineering firms presented their proposals for the West Lot Project: Brad Beck - BEI, Gary Kurth - DGR, Neil Guesz - Bolton & Mark, Mitchell Wastel - V & K. No action was taken at this time. This moved and Fisher seconded the motion to approve	
City of Paulina,	the payment of \$227,438.70 to Godbersen-Snell to complete Payment Certificate #6. Ayes - Irie, Jones, Fisher, Harper, Neys - Wertheimer. Motion carried.	
Disposal Refund	Discussion (was) had on residency policies and training for the Paulina Ambulance Squad. The council recommended the ambulance review their by-laws and report back to the council.	
Collection Services,	Brian Flach gave his approval for having the Jobe Brake and Truck Show at the Paulina Municipal Airport. Flach stated he would close the airport for 4-6 hours only. A new location will have to be found if there is a large amount of rain prior to the event.	
child support	Harper introduced the following Ordinance on August 1, 2016 and asked that it be placed on file as needed for the second time. Harper then motioned that the rule requiring the following Ordinance to be fully and distinctly read on three different days be suspended in passing and adopting the following Ordinance. It seconded the motion to adopt. Roll was called and the vote was as follows:	
Colonial Life,	Ayes: Fisher, Irie, Wertheimer, Jones, Harper	
supplemental ins.	Neys: None	
Compu Wiz	Motion carried.	
website maint.	ORDINANCE NO. 2015-01	
Dearborn National,	AN ORDINANCE ADOPTING THE "CITY CODE OF THE CITY OF PAULLINA, IOWA, 2016."	
life insurance	SECTION 1. Purpose. The purpose of this adopting Ordinance is to enable the City of Paulina, Iowa, comply with the provisions of Section 362.3 and 360. The Code of Iowa.	
Department of Energy,	SECTION 2. Adoption. The City of Paulina, Iowa, hereby adopts the 2016 Code of Ordinances for the City of Paulina, Iowa, pursuant to published notice and following public hearing on July 18, 2016, as required Sections 362.3 and 360.9, The Code of Iowa.	
purchase current	SECTION 3. Content. All ordinances or parts thereof in force on, (PUBLICATION DATE) and not contain in the "City Code of the City of Paulina, Iowa, 2016" are hereby repealed from and after (DATE), except hereinafter provided.	
DGR,		
electric		
\$848.02		
Diamond Vogel,		
Sprayer repair		
\$42.15		
EFTPS,		
Federal withholdings		
\$8,889.01		
First Financial,		
credit card fee		
\$122.70		
Foundation Asset		
Testing		
\$777.00		
Granite Perimeter,		
asphalt		
\$400.00		
Hech,		
sensors		
\$1,025.77		
Hertley,		
City of , electric asset, list - trailer		
\$1,010.50		
Indoff,		
office supplies		
\$76.57		
International Mut. Claris,		
guns		
\$165.00		
Iowa DGR,		
\$174.40		

City of Pauline, electric asset, lab - trailer	\$1,010.50
office supplies	
International Men. Clerks,	\$78.57
dues	
Iowa DNR,	\$155.00
water supply fee	
Iowa Dept,	\$124.40
Public Safe, on five warrants	
Iowa One Call,	\$1,200.00
locator	
IPERS,	\$40.00
July	
John Deere Financial,	\$4,806.23
parts and repair	
Krtz Davis,	\$541.69
Electric supplies	
LaBombard Z,	\$280.20
deposit refund	
Lakters Truck,	\$124.85
fire truck repair	
Mid American Energy,	\$1,662.15
electric	
Midwest Radar,	\$443.15
radar parts	
Missouri River Energy Service,	\$80.00
purchase contract & dues	
Northwest IA Solid Waste,	\$31,430.38
landfill fee	
Orange City Area Health,	\$1,778.04
paramedic assist.	
Odomatic,	\$150.00
fix windows 10 update	
Pauline Bldg. Center,	\$45.00
parts, bolts, gloves,	
Pauline Merchant,	\$74.36
4-H donation	
Pauline Times,	\$20.00
publications	
Prarie Market,	\$269.61
supplies	
Purchase Power,	\$130.70
postage	
Sanford,	\$500.00
Hearing test	
Strubbe,	\$150.00
S...cell phone, reimbursement	
T & R Electric,	\$80.00
single phase pad mount	
Tapco,	\$1,430.00
25 mph signs	
TCA,	\$3,384.27
phone, internet, cells	
Town & Country,	\$444.91
garbage contract	
Thes. State of Iowa,	\$4,595.75
with holding, sales tax	
Tri-State,	\$1,450.00
cement patches	
Tri Tech,	\$395.50
ambulance billing	
USA Blue Book,	\$25.00
flow gauges	
US Dept of Education	\$401.27
Verizon,	\$322.98
police call	
Visa,	\$40.00
parade, clerk school, flags,	
head lamps, police supplies	
Weidmann's True Value,	\$544.86

of Pauline, Iowa, pursuant to published notice and following public hearing on July 18, 2016, as required by Sections 382.3 and 380.8, The Code of Iowa.

SECTION 3. Content. All ordinances or parts thereof in force on, (PUBLICATION DATE) and not contained in the "City Code of the City of Pauline, Iowa, 2016," are hereby repealed from and after (DATE), except as hereinafter provided.

That the repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before (DATE); nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authoring the issuance of any bonds of said City or any evidence of said city's indebtedness or any contract or obligation assumed by resolutions of the Council not in conflict or inconsistent with the provisions of the "The City Code of the City of Pauline, Iowa, 2016"; nor shall it affect the following ordinances specifically saved from repeal:

ORDINANCE NO. ADOPTED SUBJECT

NONE

nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any ordinance naming, establishing, relocation and vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance levying and imposing taxes; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the August 18, 2016.

The 2016 Code of Ordinances shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

If the Code of Ordinances includes an ordinance which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10, The Code of Iowa, the City Clerk shall also keep on file, with the official copy of the City Code, a copy of such standard code.

SECTION 4. Format. The 2016 Code of Ordinances of the City of Pauline, Iowa, shall be compiled in loose-leaf format.

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SECTION 7. Additional Ordinances. All ordinances, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the 2016 Code of Ordinances. This section does not apply to grade ordinances, bond ordinances, zoning ordinances, naming streets and vacating streets and alleys.

SECTION 8. Effective Date. This Ordinance, after its passage and publication, as required by law, shall be effective as of the August 18, 2016.

Councilperson Harper motioned that the proposed Ordinance be passed and adopted as Ordinance No. 2016-01 Councilperson Ibs seconded the motion.

The question regarding passage and adoption of the proposed Ordinance was put to the Council by the Mayor, the Clerk called the roll and the vote was as follows:

Ayes: Ibs, Harper, Jones, Werkmeister, Fisher
Nays: None
Absent: None

HEREUPON, the Mayor announced the vote and declared that the Ordinance was duly adopted by the Council on August 1, 2016.

Justin Stamer, Mayor

Attest:
Sandy Fritz, City Clerk
CERTIFICATE
(STATE OF IOWA)
SS

(O'BRIEN COUNTY)
I hereby certify that the following was published as ordinance 2016-01 in the City of Pauline, Iowa on August 18, 2016

Signed Sandy Fritz
Sandy Fritz, City Clerk
No Building Permits

This moved and Fisher seconded the motion to give Mwamba Njelela 90 more days to complete the Nuleson abatement at 113 E Broadway. Motion carried by all eyes.

Dustin Hottelmann's property will be inspected by the council and reviewed at the next meeting.

The time being 9:15 p.m. Harper moved and Fisher seconded the motion to adjourn. Motion carried by all eyes.

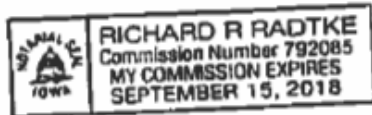
Justin Stamer, Mayor
Attest: Sandy Fritz, City Clerk
SEAL

PROPOSED CODE OF ORDINANCES PUBLIC HEARING NOTICE

Proof of Publication

State of Iowa
County of O'Brien ss.

Richard R. Radtke, Mari E. Radtke, Being first duly
sworn, deposes and says he/she is the
Publisher of The Paulina Times
a Weekly legal newspaper having a bona
fide circulation of more than 300 copies published
in Paulina
Iowa; and said newspaper has been published for
at least 52 consecutive weeks prior to publication
of attached notice; that said publication is of general
circulation; that attached notice was published
1 time(s) on July 7, 2016
Mari E. Radtke
Subscribed to in my presence
and sworn to before me this
17 day of July, 2016
[Signature]
Notary Public



Publication Fee \$ _____

CITY OF PAULLINA, IOWA
PROPOSED 2016 CODE OF ORDINANCES
PUBLIC HEARING NOTICE

The City of Paulina has updated and compiled a code of ordinances as set forth in Chapter 380 of the Code of Iowa. A public hearing on the proposed changes and proposed adoption of the City's Code of Ordinances will be held on Monday, July 18, 2016 at 7:30 p.m. at the Paulina City Hall, 127 South Main Street, Paulina, Iowa 51046. A copy of the proposed Paulina 2016 City Code of Ordinances or portions thereof, are available for review and inspection at the Paulina City Hall at the same above listed address. City Hall office hours are Monday through Friday 7:30 a.m. to 4:30 p.m. Written or oral comments are welcome and the public is encouraged to attend the public hearing. For additional information or to make arrangements for handicapped or non-English speaking individuals, please contact contact Sandy Fritz, City Clerk at the above address or by phone at 712-949-3428.

Published in The Paulina Times July 7, 2016

TITLE I: MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 1 - MUNICIPAL CODE

- 1.01 TITLE. This Code of Ordinances will be known and may be cited as the Municipal Code of Ordinances of the City of Paullina, Iowa, 2009.
- 1.02 DEFINITIONS. Terms used within this Code of Ordinances shall have the meanings defined below, unless specifically defined otherwise.
1. "Alley" shall mean a public right-of-way, other than a street, affording secondary means of access to abutting property.
 2. "Certified Mail" wherever used in this Code shall mean any form of mail service, by whatever name, provided by the United States post office where the post office provides the mailer with a receipt to prove mailing.
(Iowa Code Section 618.15(1))
 3. "City" shall mean the City of Paullina, Iowa.
 4. "City Code" or "Municipal Code" shall mean the current Municipal Code of the City of Paullina, Iowa.
 5. "Clerk" shall mean the City Clerk or City Clerk/Administrator of Paullina, Iowa.
 6. "Code" shall mean the specific chapter in which a specific subject is covered and bears a descriptive title word.
 7. "Council" shall mean the City Council of Paullina, Iowa.
 8. "County" shall mean O'Brien County, Iowa.
 9. "Following" shall mean next after.
 10. "Measure" shall mean an ordinance, resolution, amendment or motion.
 11. "Month" shall mean a calendar month.
 12. "Oath" shall be construed to include an affirmation which may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn".
 13. "Occupant", "Tenant" applied to a building or land, shall include any person who inhabits the whole or part of such building or land, whether alone or with others.

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14. "Ordinances" shall mean the ordinances of the City of Paullina, as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
15. "Parking" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
16. "Peace officers", sometimes designated "law enforcement officers", include:
 - a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
 - b. Marshals and police officers of cities.
 - c. Peace officer members of the department of public safety as defined in Code of Iowa Chapter 80.
 - d. Conservation officers as authorized by section 456A.13.
 - e. Such employees of the department of transportation as are designated "*peace officers*" by resolution of the department under section 321.477.
 - f. Such persons as may be otherwise so designated by law.
16. "Person" shall mean an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity and includes a trustee, receiver, assignee, or similar representative but does not include a governmental body.
17. "Preceding" shall mean next before.
18. "Property" shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
19. "Property Owner" shall mean a person owning private property in the city as shown by the county auditor's plats of the city.
20. "Public Place" shall include in its meaning, but is not restricted to any city-owned space or property, either open or enclosed.
21. "Public Property" shall mean any and all property owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
22. "Public Way" shall include any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
23. "Sidewalk" shall mean that paved 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.

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24. "State" shall mean the State of Iowa.
25. "Statutes, Laws" shall mean the latest edition of the Code of Iowa as amended.
26. "Street" shall mean and include any public way, highway, street, avenue, boulevard or other public thoroughfare, and each of such words shall include every other of them, and unless otherwise indicated in the text, shall include the entire width between property lines.
27. "Writing, Written" includes printing, typing, lithographing, or other mode of representing words and letters.
28. "Year" shall mean a calendar year.

1.03 RULES OF CONSTRUCTION. In the construction of the Municipal Code, the following rules shall be observed:

1. Tense: words used in the present tense include the future.
2. May: grants a power.
3. Must: states a requirement.
4. Shall or Will: imposes a duty.
5. Gender: masculine gender shall include the feminine and neuter genders.
6. Interpretation: all general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the council may be fully carried out.
7. The singular includes the plural, and the plural includes the singular.

1.04 AMENDMENTS. All ordinances which amend, repeal or affect the Municipal Code will include proper reference to title, division, chapter, article, section, and subsection to maintain an orderly classification of ordinances of the city. Any amendment of an ordinance shall include in full the language of the ordinance section, subsection, or paragraph as amended.
(Code of Iowa, Sec. 380.2)

1.05 ALTERING CODE. It is unlawful for any person, having no right authority to do so, to make or alter, by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or otherwise tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the city to be misinterpreted thereby or to possess a seal or any counterfeit seal of the City or of any of its officers or employees.
(Code of Iowa, Sec. 718.5)

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1.06 STANDARD PENALTY. The following provisions govern the imposition of penalties under the Code of Ordinances unless another penalty is expressly provided for by the Code of Ordinances:

1. Definitions:

- a. "Municipal Infraction": shall mean a civil offense and shall not include any offense provided for under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapter 687 through 747, both inclusive of the Code of Iowa.
(Code of Iowa, Sec. 364.22(1) and (3))
- b. "Civil Offense": shall mean a violation of a section of the Code of Ordinances.
- c. "Repeat Offense": shall mean a recurring violation of the same section of the Code of Ordinances.
- d. "Violation": shall mean the doing of any act prohibited or declared to be unlawful by the Code of Ordinances, the omission or failure to do, or perform any act or duty required by the Code of Ordinances or any rule, regulation, ordinance or code herein adopted by reference or the failure to obtain a license required by the Code of Ordinances or any rule, regulation, ordinance or code herein adopted by reference.
- e. "Officer": shall mean any employee, official or officer, whether elected or appointed, of the City of Paullina, Iowa, who is authorized to enforce the Code of Ordinances.

2. Civil Penalties.

- a. A municipal infraction is punishable by a civil penalty not to exceed the following schedule:

<u>FIRST OFFENSE</u>	<u>SECOND REPEAT OFFENSE</u>	<u>THIRD AND SUBSEQUENT REPEAT OFFENSE</u>
\$750.00	\$1,000.00	\$1,000.00

- b. Each day a violation occurs or is permitted to exist or occur by the violator constitutes a separate offense.

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- c. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under the conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the city to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

Editor's Note: Section 1.06(2)(a) was changed at time of Updating Code Book in 2009 to reflect an increase allowed under Code of Iowa.

3. Civil Citations.

- a. An officer may issue a civil citation to a person who commits a municipal infraction.
- b. The citation may be served by personal service, as provided in the Iowa Rules of Civil Procedure, or by certified mail, return receipt requested.
- c. A copy of the citation shall be sent to the Clerk of the District Court.
- d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 1. The name and address of the Defendant.
 2. The name or description of the infraction attested to by the officer issuing the citation.
 3. The location and time of the infraction.
 4. The amount of civil penalty to be assessed or the alternate 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.
(Code of Iowa, Sec. 364.22(4))

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4. Other Penalties.

- a. 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. The criminal penalty surcharge required by Code of Iowa section 911.1 shall be added to a city fine and is not a part of the city's penalty.

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

- 1.07 CATCHLINES AND NOTES. The catchlines of the several sections of the Code of Ordinances, titles, headings (chapter division, article, section and subsection), editor's notes, cross references and state law references, unless set out in the body of the section itself, contained in the 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.
- 1.08 SEPARATE OFFENSE. If a violation of this code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day.
- 1.09 SINGLE OFFENSE. In cases where action or inaction is made punishable by more than one provision of this code, the city may select the provision or provisions of this code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1.08 of this chapter.
- 1.10 LIABILITY OF OFFICERS. No provision of this code designating the duties of any officer or employee of the city shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the council to impose such a penalty is specifically and clearly expressed in this code.
- 1.11 LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES. A violation of this code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a municipal infraction charge, or other civil remedies provided in other sections of this code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies.
- 1.12 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

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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 SUFFICIENCY OF SERVICE BY CERTIFIED MAIL. Wherever notice is allowed by certified mail in this City Code, and then upon proof of an addressee's refusal to accept a certified mail, service by certified mail shall be deemed satisfied and the notice shall become effective. For purposes of this section, proof of an addressee's refusal to accept a certified mail may include the return from the postal service to include any markings from the postal service demonstrating that the addressee refused the certified mail and that the same has been returned to the sender.”
- 1.14 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.
- 1.15 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.
- 1.16 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

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- 1.17 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 2 - BOUNDARIES

- 2.01 CORPORATE LIMITS. The Corporate limits of the City are hereby declared to be such as having been heretofore or hereafter legally established by law or the acts of the City.

Said territory is and the same is hereby declared to be "The City of Paullina." The inhabitants of said territory hereby constitute a body politic and corporate, possessed of all the powers, immunities, and rights of a City existing under and by virtue of the laws of Iowa. The force and authority of all ordinances and the jurisdiction of the officers of said City shall be co-extensive therewith in all cases, and in special cases to such extent as may be provided by the general laws of the State.

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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 3 - CHARTER

- 3.01 PURPOSE. The purpose of this article is to provide for a Charter incorporating the form of government existing in the City of Paullina, Iowa.
- 3.02 CHARTER. This article may be referred to as the Charter of the City of Paullina, Iowa.
- 3.03 FORM OF GOVERNMENT. The City of Paullina, Iowa, shall have the mayor-council form of government.
(Code of Iowa, Sec. 372.4)
- 3.04 POWERS AND DUTIES. The council, the mayor, and other city officers have such powers and perform such duties as authorized or required by State law and by the ordinances, resolutions, rules, and regulations of the City of Paullina, Iowa.
- 3.05 NUMBER AND TERM OF COUNCIL. The council consists of five (5) council members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 376.2)
- 3.06 TERM OF MAYOR. The mayor is elected for a term of two (2) years.
(Code of Iowa, 376.2)
- 3.07 COPIES ON FILE. The clerk shall keep an official copy of this Charter on file with the official records of the city clerk, the secretary of state and make available copies at the clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 4 - CITY SEAL

- 4.01 SEAL AND CUSTODY. The council shall provide a seal, in the center of which shall be the words "CITY OF PAULLINA" and around the margin the words "OFFICIAL SEAL - STATE OF IOWA", and the same is hereby declared to be the city seal. The clerk shall keep the city seal in his or her charge.
- 4.02 USE. The city seal shall be attached to all transcripts, orders, and certificates which it may be necessary or proper to authenticate.

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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 5 - ELECTIONS

- 5.01 PURPOSE. The purpose of this article is to designate the method by which candidates for elective municipal offices in the City of Paullina, Iowa, shall be nominated.
- 5.02 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, as amended. The required procedures, as they apply to this municipality, are set forth in detail in this article to better inform the electorate.
(Code of Iowa, Sec. 376.3)
- 5.03 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City of Paullina, Iowa, may be made by nomination paper or papers signed by not less than ten (10) eligible electors, residents of the City of Paullina, Iowa.
- 5.04 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)
- 5.05 AFFIDAVIT OF CANDIDACY. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the secretary of state and shall include the following information:
1. The candidate's name in the form the candidate wants it to appear on the ballot.
 2. The candidate's home address.
 3. The name of the county in which the candidate resides.
 4. The name of the political organization by which the candidate was nominated, if any.
 5. The office sought by the candidate, and the district the candidate seeks to represent, if any.
 6. A declaration that if the candidate is elected the candidate will qualify by taking the oath of office.
 7. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in section 68A.102, subsection 5. This subsection shall not apply to candidates for federal office.
 8. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

agricultural extension council and soil and water conservation district commission.

9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.

(Code of Iowa, Sec. 45.3)

- 5.06 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)

- 5.07 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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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 6 - OFFICERS AND EMPLOYEES

- 6.01 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council, unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13(4))
- 6.02 OATHS. The oath of office shall be required and administered in accordance with the following:
1. Qualify for Office. All elected officers and the following appointment officers shall qualify for office by taking the prescribed oath:
(Code of Iowa, Sec. 63.1)
 - A. City Clerk.
 - B. Deputy City Clerk.
 - C. Fire Chief.
 - D. Treasurer.
 - E. Police Chief.
 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 Paullina as now or hereinafter required by law."
(Code of Iowa, Sec. 63.10)
 3. Officers Empowered to Administer Oaths. The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:
 - A. The Mayor.
 - B. The Clerk.
 - C. Members of all boards, commissions or bodies created by law.
(Code of Iowa, Sec. 78.2(2), (4))
- 6.03 OFFICERS TO BE APPOINTED. The following appointments shall be made:
1. CLERK. The council shall appoint a city clerk to perform duties prescribed by State or City law.
(Code of Iowa, Sec. 372.13(3))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

2. TREASURER. The council shall appoint a treasurer to perform duties prescribed by State or City law.
 3. MAYOR PRO TEM. The mayor shall appoint a council member as mayor pro tem.
(Code of Iowa, Sec. 372.4)
 4. OTHER OFFICERS AND EMPLOYEES. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.
(Code of Iowa, Sec. 372.13(4) & 372.4)
 5. CITY ATTORNEY. The council shall appoint a city attorney to perform as prescribed by State or City law.
 6. POLICE CHIEF. The Mayor shall appoint the police Chief, but only with majority consent of the Council.
(Code of Iowa 372.4)
- 6.04 BOOKS AND RECORDS. The public has the right, upon request, to examine, copy, or publish all books and records required to be kept by law or ordinance, unless the records are required to be kept confidential or this right is limited by other provisions in the Code of Iowa.
(Code of Iowa, Sec. 22.2 & 22.7)
- 6.05 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in his or her possession pertaining to the officer's.
- 6.06 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 officer's or employee's city. When used in this section, "*contract*" means any claim, account, or demand against or agreement with a city, express or implied. A contract entered into in violation of this section is void. The provisions of this section do not apply to:
(Code of Iowa, Sec. 362.5)
1. Compensation of Officers. The payment of lawful compensation of a city officer or employee holding more than one city office or position, the holding of which is not incompatible with another public office or is not prohibited by law.
(Code of Iowa, Sec. 362.5(1))
 2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(Code of Iowa, Sec. 362.5(2))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

3. City Treasurer. An employee of a bank or trust company, who serves as treasurer of a city.
(Code of Iowa, Sec. 362.5(3))
4. Public Contracts. Contracts made by a city, upon competitive bid in writing, publicly invited and opened.
(Code of Iowa, Sec. 362.5(4))
5. 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 9, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.
(Code of Iowa, Sec. 362.5(5))
6. Newspaper. The designation of an official newspaper.
(Code of Iowa, Sec. 362.5(6))
7. Existing Contracts. A contract in which a city officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5(7))
8. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.
(Code of Iowa, Sec. 362.5(8))
9. Corporations. A contract with a corporation in which a city officer or employee has an interest by reason of stockholdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5(9))
10. Contracts. Contracts not otherwise permitted by this section for the purchase of goods or services by a city having a population of two thousand five hundred or less, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.
(Code of Iowa, Sec. 362.5(11))
11. Cumulative Purchases. Contracts Benefiting. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of more than two thousand five hundred, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.
(Code of Iowa, Sec. 362.5(10))

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

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

6.08 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)

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

(Code of Iowa, Sec. 362.6)

6.10 RIGHT TO EXAMINE PUBLIC RECORDS - EXCEPTIONS.

1. Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record. All rights under this section are in addition to the right to obtain a certified copy of a public record under Code of Iowa, section 622.46.
2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.
3. However, notwithstanding subsections 1 and 2, a government body is not required to permit access to or use of the following:
 - a. A geographic computer database by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the database upon the request of any person.

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- b. Data processing software developed by the government body, as provided in Code of Iowa, section 22.3A.

(Code of Iowa Sec, 22.2)

4. The City will not release confidential records as listed and described in Code of Iowa, Chapter 22.7.

6.11 SUPERVISION - FEES.

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the examination and copying.
2. All expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

(Code of Iowa, Sec. 22.3)

- 6.12 HOURS WHEN AVAILABLE. The rights of persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 8:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m. Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.

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(Code of Iowa, Sec. 22.4)

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

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

- 6.14 NON-ELIGIBILITY FOR REAPPOINTMENT. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected if, during that time, the compensation for the office has been increased.

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

- 6.15 VACANCIES. A vacancy in an elective office during a term of office shall be filled by the council within forty (40) days after the vacancy occurs, at the council's option, by one of the following:

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(2))

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(2))

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

(Code of Iowa, Sec. 372.15)

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

- 6.18 BONDS. Surety bonds shall be provided in accordance with the following:

1. Required. The council shall provide by resolution for a surety 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)

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

2. Surety. Any association of incorporation which does the business of insuring the fidelity of others, and which has authority by law to do business in this state, shall be accepted as surety upon any bonds required.

(Code of Iowa, Sec. 64.17)

3. Bonds Approved. Bonds shall be approved by the council.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, 64.23(6))

5. 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))

- 6.19 TERMS OF APPOINTED OFFICERS. The terms of all appointed officers that are not otherwise fixed by law or ordinance shall be two (2) years, such terms expiring at the time of the organizational meeting of the council in January following the regular municipal election and the appointment of a successor.

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

- 6.20 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use the property owned by the City for any private purpose and for personal gain, to the detriment of the City.

(Code of Iowa, 721.2(5))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 7 - MAYOR

7.01 TERM OF OFFICE. The mayor is elected for a term of two (2) years.

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

1. SUPERVISE DEPARTMENT HEADS. Supervise and give direction to all city department heads concerning departmental functions. The Mayor may examine all department functions and records and call for special reports from department heads at any time.

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

2. PRESIDING OFFICER. Act as presiding officer at all regular and special council meetings. The Mayor may call special meetings of the council when necessary to the interests of the city.

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

3. ACTION ON ORDINANCE. May sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. The Mayor must provide a written explanation for a veto on an ordinance, amendment or resolution.

(Code of Iowa, Sec. 380.5 & 380.6(2))

4. REPORTS. Make oral and written reports to the council at the first meeting of every month which concern municipal affairs, department, and recommendations suitable for council action.

5. CONTRACTS. Sign all contracts on behalf of the city when authorized by the council.

6. REPRESENT CITY. Represent the city in all negotiations legally entered, unless this duty is otherwise delegated by law or ordinance.

7. SECURE SERVICES. Secure special or professional services not available to the city, upon order of the council and shall conduct him or herself in accordance with the Code of Ordinances and the Law of the State of Iowa.

8. AUTHORIZE LICENSES AND PERMITS. Sign all licenses and permits granted by the council, except those legally designated to be issued by another municipal officer.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

9. REVOKE LICENSES AND PERMITS. Under council authorization, revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.
10. MAYOR PRO TEM. Designate one member of the council as mayor pro tem.
11. ABSENTEE OFFICER. Provide that the duties of an absentee officer are carried on during the officer's absence.
12. REMOVE NUISANCES. Order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. The order shall be in writing and carried out by a peace officer.
13. SPECIAL MEETINGS. The Mayor shall 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))
14. PROCLAMATION OF EMERGENCY. Have the authority to take command of the police and govern the City by proclamation, upon making a determination that the time of emergency or public danger exists. Within the City limits the, the mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14(2))

7.03 APPOINTMENTS. The mayor shall appoint the following officials:

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

(Code of Iowa, Sec. 372.4)

7.04 VOTING. The mayor is not a member of the council and may not vote as a member of the council.

(Code of Iowa, Sec. 372.4)

7.05 COMPENSATION. The salary of the mayor shall be three thousand dollars (\$3,000.00) per year.

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

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 8 - MAYOR PRO TEM

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

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

8.02 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 shall be paid for that period such 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))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 3: ADMINISTRATIVE CODE - LEGISLATIVE

ARTICLE 9 - COUNCIL

- 9.01 NUMBER AND TERM OF COUNCIL. The council consists of five (5) council members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 372.4 & 376.2)
- 9.02 POWERS AND DUTIES. The powers and duties of the council shall be as follows:
1. GENERAL. All powers of the city are vested in the council unless otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2(1))
 2. FUNDS. Apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof.
(Code of Iowa, Sec. 384.16)
 3. PUBLIC IMPROVEMENTS. Make all orders for the doing of public improvements, and award contracts for construction of any public improvements.
 4. CONTRACTS. Make or authorize all contracts. No contract shall bind or obligate the city unless authorized by the council, and be in writing. Contracts authorized by resolution shall be drawn or approved by the city attorney before they are entered into. Any contracts based upon bidding would require bidding according to the Code of Iowa requirements.
(Code of Iowa, Sec. 384.95-384.101)
 5. OFFICERS AND EMPLOYEES. Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.
(Code of Iowa, Sec. 372.13(4&8))
 6. PRESCRIBE COMPENSATION. By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor shall not become effective during the term in which the increase 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 immediately following a regular city election. A change in the compensation of council members shall become effective for all council members at the beginning of the term of the council members elected at the election next following the adoption of the increase in compensation.
(Code of Iowa, Sec. 372.13(8))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

7. **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.
 8. **RECORDS.** The council shall maintain records of its own proceedings.
(Code of Iowa, Sec. 372.13(5))
 9. **FISCAL AUTHORITY.** The council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.
(Code of Iowa, Sec. 364.2(1), 384.16 & 384.38(1))
- 9.03 **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. **APPROVED ACTION BY COUNCIL.** Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members. 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) on any one project, or to accept public improvements and facilities upon their completion. Each council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

As used in this chapter, "all of the members of the council" refers to all of the seats of the council including a vacant seat and a seat where the member is absent, but does not include a seat where the council member declines to vote by reason of a conflict of interest.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.
(Code of Iowa, Sec. 380.4)
 2. **OVERRIDING MAYOR'S VETO.** Within thirty (30) days after the mayor's veto, the council may repass the ordinance or resolution by a vote of not less than two-thirds (2/3) of the council members; and the ordinance or resolution becomes effective upon repassage and publication.
(Code of Iowa, Sec. 380.6(2))

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

3. MEASURES BECOME EFFECTIVE. Measures passed by the council, other than motions, become effective in one of the following ways:
 - a. If the mayor signs the measure, a resolution becomes effective immediately upon signing; and an ordinance or amendment becomes effective when the ordinance or a summary of the ordinance is published as provided in Iowa Code, Section 380.7 (3) unless a subsequent effective date is provided within the ordinance or amendment.
(Code of Iowa, Sec. 380.6(1))
 - b. If the mayor vetoes a measure and the council repasses the same measure after the mayor's veto, a resolution becomes effective immediately upon repassage; and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.
(Code of Iowa, Sec. 380.6(2))
 - c. If the mayor takes no action on the measure, a resolution becomes effective fourteen (14) days after the date of passage; and an ordinance or amendment becomes a law when published, but not sooner than fourteen (14) days after the day of passage, unless a subsequent effective date is provided within the measure.
(Code of Iowa, Sec. 380.6(3))
 - d. A motion becomes effective immediately upon passage of the motion by the Council.
(Code of Iowa, Sec. 380.6)

9.04 COUNCIL COMMITTEES. The mayor shall appoint with approval of the council any council standing committees established by council resolution, and any special committees of the council. The standing committees shall consist of two council members; the first named shall be chairman. The mayor shall name the chairman of special committees and such other members as the Mayor deems appropriate. The mayor shall be an ex-official member of each committee. The mayor shall appoint the standing committees at the first meeting in January following each municipal election. Special committees may be named by the mayor when deemed useful to the city.

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

1. REGULAR MEETINGS. The regular meetings of the council shall be held on the first and third Mondays of each month at 7:30 p.m. in the Council Chambers, City Hall. If such a day shall fall on a legal holiday, the meeting shall be held on the next succeeding day at the same time unless a different day or time is determined by the council. Council may also change the date and time for compelling reasons.

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2. SPECIAL MEETINGS. Special meetings shall be held upon call of the mayor or upon the written request of a majority of the members of the council submitted to the clerk. Notice of a special meeting shall specify the date, time, place, and subject of the meeting; and such notice shall be given personally or left at the usual place of residence of each member of the council. A record of the service of notice shall be maintained by the clerk.
(Code of Iowa, Sec. 21.4)
 3. OPEN MEETINGS. All meetings of the council, standing committees and city boards or commissions, or special committees shall comply with the open meeting laws of Iowa.
(Code of Iowa, Chapter 21)
 4. QUORUM. A simple majority of all councilmen is a quorum.
(Code of Iowa, Sec. 372.13(1))
 5. RULES OF PROCEDURE. The council shall determine the rules of its own proceedings by resolution, and the clerk shall keep such rules on file for public inspection.
(Code of Iowa, Sec. 372.13(5))
 6. COMPELLING ATTENDANCE. Any three (3) members of the council can compel the attendance of the absent members at any regular, adjourned or duly called meeting by serving a written notice upon the absent members to attend at once.
 7. 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 the vote of each member present shall be made public.
(Code of Iowa, Sec. 21.3)
- 9.06 ELIGIBILITY FOR APPOINTMENT. A councilmember is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which the councilmember is elected.
(Code of Iowa, Sec. 372.13(9))
- 9.07 COMPENSATION. The salary of each council member shall be fifty dollars (\$50.00) for each official council meeting attended and twenty-five dollars (\$25.00) for each special meeting of the council attended.
(Code of Iowa, Sec. 372.13(8))

Editor's Note: Ordinance 236 was approved on March 9, 2000 amending Section 9.07.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

- 9.08 TENTATIVE AGENDA. The clerk shall prepare and post a tentative agenda for each meeting at a place, or places, designated by the council, one of which shall be near the place of meeting at the city hall. The posting shall be made at least twenty-four (24) hours before the meeting except as permitted under state law in case of emergencies.
- 9.09 SERVING AS CHIEF OF VOLUNTEER FIRE DEPARTMENT. If volunteer fire department for the City serves an area with a population of not more than two thousand (2,000) then a council member may also hold the office of chief of the volunteer fire department, provided that no other person who is not a council member is available to hold such office.
(Code of Iowa, Sec. 372.13(10))
- 9.10 CLOSED SESSION. A closed session may be held only by affirmative vote of either two-thirds of the council or all of the members present at the meeting and in accordance with Chapter 21 of the Iowa Code.
(Code of Iowa, Sec. 21.5)
- 9.11 CAMERAS AND RECORDERS. The public may use cameras and recording devices at any open session.
(Code of Iowa, Sec. 21.7)
- 9.12 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 Iowa Code.
(Code of Iowa, Sec. 21.8)
- 9.13 APPOINTMENTS. The council shall appoint the following officials and prescribe their powers, duties, compensation and term of office:
1. City Clerk or City Clerk/Administrator.
 2. City Attorney.
 3. City Treasurer.
 4. Superintendent of Utilities. The superintendent shall have the powers and duties of the water and sewer superintendent wherever those terms are referred to in the Code of Ordinances.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

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

(Code of Iowa, Sec. 21.4)

1. NOTICE OF MEETING (PUBLIC NOTICE) Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4)

- 2.a. TWENTY-FOUR HOUR NOTICE. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.

- b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

3. Subsection 1 does not apply to any of the following:

- a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.
- b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

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4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
5. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

7. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

(Code of Iowa, Sec. 21.5)

- a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
- b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- c. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
- d. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
- e. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.

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- f. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- g. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- h. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.
 - 1. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.
 - 2. This section shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this section applies and which is contained in such a record.
- i. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.
- j. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.
- k. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the

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court in an action to enforce this chapter, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.

- k. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

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

(Code of Iowa, Sec. 21.7)

- 9. 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)

- 9.15 GENDER BALANCE. All appointive boards, commissions, and committees shall be gender balanced. No person shall be appointed or reappointed to any board, commission, or committee if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, or committee plus one if the board, commission, or committee is composed of an odd number of members. If the board, commission, or committee is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission or committee they shall consult each other to avoid a violation of this section.

All appointive boards, commissions, and committees of the City, if not otherwise provided by law, shall be gender balanced as provided in this section unless the City has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, or committee in compliance with this section for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this section, the City shall utilize a fair and unbiased method of selecting the best qualified applicants. This section shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance. Gender

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balance is applicable to appointive boards, commissions, and committees of the City on and after January 1, 2012.

(Code of Iowa, Sec. 69.16A)

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 10 - CITY CLERK

- 10.01 APPOINTMENT. At its first meeting in January following the regular city election, the council shall appoint by majority vote a city clerk to serve for a term of two (2) years.
- 10.02 POWERS AND DUTIES. The powers and duties of the city clerk shall be as follows:
1. **ADMINISTER OATHS.** Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 63A.2)
 2. **ATTEND MEETINGS.** Attend all meetings of the council and its committees.
 3. **RECORD PROCEEDINGS.** Record and preserve a record of meeting proceedings and publish a summary of Council proceedings after each regular or special meeting.
(Code of Iowa, Sec. 380.7(1& 2))
 4. **ORDINANCES.** Publish all ordinances immediately after passage and approval by council, and keep an ordinance book authenticating each ordinance and certifying as to the time and manner of publication.
(Code of Iowa, Sec. 380.7(3 & 4) & 362.3)
 5. **RESOLUTIONS.** Keep an official resolution record book, and enter each resolution therein.
 6. **COUNCIL COMMUNICATIONS.** Keep and date all communications and petitions directed to the council or city, and endorse thereon council action taken on matters presented in such documents.
(Code of Iowa, Sec. 372.13(4))
 7. **CORPORATE SEAL.** Affix the corporate seal to those public documents or instruments as directed by the mayor or council or as required by law.
(Code of Iowa, Sec. 380.7(4))
 8. **ELECTIONS.** Accept the nomination petition of a candidate for a city office for filing if on its face it appears to have requisite number of signatures and it is timely filed. The clerk shall deliver all nomination petitions to the county commissioner of elections no later than five o'clock p.m. (5 p.m.) on the day following the last day on which nomination petitions can be filed.
(Code of Iowa, Sec. 376.4)

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9. **ISSUE LICENSES AND PERMITS.** Issue all council-approved licenses and permits and keep a record of them showing the date, number, to whom issued, and for what purpose.
 10. **OTHER DUTIES.** Perform such other duties as specified by council resolution or ordinance.
- 10.03 **POWERS AND DUTIES: DEPUTY CITY CLERK.** The clerk, or in the absence of inability of the clerk to act, the deputy clerk, shall have the powers and duties as provided in this article, the Code of Ordinances and the law.
- 10.04 **CHIEF ACCOUNTING OFFICER.** The clerk shall be chief accounting officer of the city and:
1. **BUDGET ACCOUNTS.** Maintain the budgetary accounts required by law and as directed by the council.
 2. **BUDGET REPORTS.** Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
 3. **REVENUES FROM CITY UTILITY.** The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited with the treasurer and kept in a separate account from each other and other funds of the city.
(Code of Iowa, Sec. 384.85)
 4. **PAY CLAIMS.** Pay all claims against the city only upon council order or other council authorization.
 5. **AUTHENTICATE DOCUMENTS.** The clerk shall authenticate all such measures expect motions with the clerk's signature, certifying the time and manner of publication when required.
(Code of Iowa, Sec. 380.7(4))
 6. **BALANCE ACCOUNTS.** Reconcile the bank statements with the clerk's books and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.
 7. **INVESTMENTS.** Invest all idle funds and other funds as directed by the council in accordance with law.
(Code of Iowa, Sec. 12B)
 8. **RECORD RECEIPTS.** The clerk shall 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.

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9. RECORD DISBURSEMENTS. The clerk shall keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
 10. SPECIAL ASSESSMENTS. The clerk shall keep a separate account of all money received by the clerk from special assessments.
 11. DEPOSIT FUNDS IN BANK. The clerk shall, upon receipt of monies to be held in the clerk's custody and belonging to the city, deposit the same in banks selected by the council in amounts not exceeding monetary limits authorized by the council.
 12. DEBT SERVICE. The clerk shall keep a register of all bonds outstanding and record all payments of interest and principal.
 13. DEPOSITORY DECLARATION. The clerk shall determine the anticipated level of bank deposits for making the depository declaration to the State Treasurer as required by Chapter 453, Code of Iowa.
 14. RECONCILIATION WITH TREASURER. The clerk shall reconcile the clerk's books with the treasurer's every month.
(Code of Iowa, Sec. 452 &453)
- 10.05 CUSTODY OF RECORDS. The clerk shall have custody of all records and documents pertaining to the municipality unless otherwise directed by law or ordinance and:
(Code of Iowa, Sec. 372.13(3))
1. FILE AND RECORD TRANSACTIONS. File and preserve all receipts, vouchers, and other documents kept or required to be kept so as to prove the validity of every transaction and identity of any person having a beneficial relation thereto.
 2. DESTROY OLD RECORDS. Destroy all vouchers and minor records over five years old except those specified for retention by law.
(Code of Iowa, Sec. 372.13(3&5))
 3. FURNISH COPIES. Furnish, upon request, to any municipal officer a copy of any record, paper, or public document under the clerk's control when necessary to the discharge of the officer's duty. The Clerk shall also furnish a copy to any citizen when requested upon payment of the allowable charge set by law or council.
 4. CERTIFY MEASURES. Certify to the county recorder all ordinances establishing zoning district, building lines, or fire limits, and a plat showing each district, lines, or limits.
(Code of Iowa, Sec. 380.11)

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

5. RECORD APPOINTMENTS. Keep a record of all appointments, notifying all persons appointed by the mayor or council of such appointments and the time of taking office.

10.06 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 the municipal code or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

2. MANNER OF PUBLICATION. A publication required by the city code or law must be in a newspaper published at least once weekly and having general circulation in the city (except that ordinances and amendments may be published by posting in the official places set by ordinance).

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

3. PUBLICATION OF MINUTES. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. The list of claims allowed shall show the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the city shall provide at its office upon request an unconsolidated list of all claims allowed. Matters discussed in closed session pursuant to Code of Iowa, Section 21.3 shall not be published until entered on the public minutes. Failure by the clerk to make publication is a simple misdemeanor. The provisions of this subsection are applicable in cities in which a newspaper is published, or in cities of two hundred population or over, but in all other cities, posting the statement in three public places in the city which have been permanently designated by ordinance is sufficient compliance with this subsection.

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

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

1. City Hall
2. United States Post Office
3. Official City Newspaper

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10.08 POWERS AND DUTIES. In addition to assuming the duties of the city clerk, the city clerk shall have the following other duties:

1. Shall administrate the activities of the city offices and other departments as directed by the city council.
2. Shall coordinate with the Superintendent of Utilities all activities of city employees.
3. Shall see that the laws and ordinances of the municipal corporation are faithfully enforced and executed.
4. Shall attend all official meetings of the city council and its committees; and to prepare in cooperation with the mayor and Superintendent of Utilities, the agenda and order of business for the city council and committee meetings.
5. Shall coordinate with the Superintendent of Utilities the supervision, taking and recording of inventories.
6. Shall coordinate with the Superintendent of Utilities the purchasing of items as may be necessary, economical or advisable.
7. Shall act as personnel officer for the city, and in cooperation with the city council and Superintendent of Utilities, recommend salary and wage scales and working conditions for all employees of the city.
8. In cooperation with the Superintendent of Utilities, be responsible for the training of city employees and for continuing education to retain any certification already earned, and shall keep a record of training and Continuing Education Units (CEU's) earned.
9. Subject to council approval, hire or dismiss city employees, and make recommendations as to supervisory personnel upon request by the city council.
10. Suspend with pay city employees subject to review by the city council pursuant to the procedure set forth for the removal of appointed officers.
11. Shall assure that complaints, grievances, recommendations, and other matters receive prompt attention by a responsible official and to assure that all matters are expeditiously resolved.
12. Shall take charge of all city-owned buildings and grounds; and in cooperation with the Superintendent of Utilities, administer the operation, maintenance and improvements of all city-owned property, lands and buildings and be responsible for the security of same.

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13. In cooperation with the Superintendent of Utilities, have charge of the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for public works or public improvements, the cleaning, sprinkling, and lighting of streets, alleys and public places, the collection and disposal of wastes, and the preservation of tools, equipment, vehicles and appliances belonging to the Municipal Corporation.
14. In cooperation with the Superintendent of Utilities, manage all municipal parks, airports and all municipal water, lighting, power plant and sewer facilities, and streets.
15. Shall supervise in cooperation with the Superintendent of Utilities, the performance of all contracts for work to be done for the city, make all purchases of materials and supplies are received and are of the character and quality called for by the contract.
16. Represent the city in intergovernmental matters and affairs as directed by the mayor and city council.
17. Be informed concerning current state and federal legislation affecting the city and in cooperation with the Superintendent of Utilities, submit recommendations to the city council.
18. Shall ascertain and investigate the availability of state and federal funds for programs beneficial to the city and apply for such funds under the direction of the mayor and city council.
19. Shall perform the administrative duties consistent with laws as may be prescribed by the city council from time to time.
20. Shall make available to the city council each month an itemized financial report in writing showing receipts and disbursements for each line item of the current fiscal year's budget.
21. Shall provide for the issuance, suspension and revocation of such licenses and permits as are authorized by law or ordinance, cause a record thereof to be kept, and collect and deposit in a designated depository, all fees for licenses and permits.
22. Shall seek clarification from the city council whenever any of the duties are uncertain or unclear.
23. In cooperation with the Superintendent of Utilities, keep the city council informed of conditions of the city and of its future needs.
24. Administer Drug and Alcohol Program and the OSHA 300 Log.
25. See that necessary reports are filed in a timely manner as required by I.D.O.T., W.A.P.A., I.U.B., I.D.N.R., State Auditor's Office, Annual Financial Report and RUT Report.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

26. Evaluate staff by use of an approved evaluation form and maintain personnel files.
27. Be first aid and CPR certified.
28. Should complete the three-week Municipal Clerk's school at I.S.U., if not already completed.
29. Represent the City, Mayor, and Council on various boards and commissions if appointed to same.
30. Aid the Council in developing a budget and file it with the County Auditor in a timely manner.
31. Develop/generate new required reports/programs as mandated by Federal and State Government.
32. Be familiar with Iowa Utilities Board rules and regulations for the electric utility.
33. Be familiar with the Ordinance Book.
34. Hold a B.A. degree in business or public administration or have experience in municipal government.
35. Perform any other tasks as assigned by the Mayor or Council.
36. Represent the City in a positive manner with other communities in the area and within the Community of Paullina.
37. Shall maintain the master MATERIALS SAFETY DATA SHEET book and shall update additional copies as necessary.
38. Shall be familiar with the computer programs in operation.
39. Administer any grant programs.
40. Maintain confidential drug and alcohol records, medical and personnel files.
41. Maintain CEU's for all employees.
42. Attend relevant meeting and training sessions.

10.09 COMPENSATION. The clerk shall be paid such compensation as specified by resolution of the council.

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

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 11 - TREASURER

11.01 APPOINTMENT. The treasurer shall be appointed by the council for a term of two (2) years.

11.02 POWERS AND DUTIES. The treasurer shall have the following powers and duties:

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, including all funds received or held in custody for any board or commission or agency existing in the city created by council or the people.
2. RECONCILIATIONS, REPORTS. Reconcile the bank statements with the city's books, certify monthly to the council the balance of cash and investments of each fund and amounts received and disbursed, and reconcile the treasurer's books with the clerk's every month.
3. RECORDS. Keep such books as will account for all funds of the city, including any warrants out at interest, and call such warrants at the earliest opportune time.
4. OTHER DUTIES. Perform such other duties as specified by the council by resolution or ordinance.
5. RECORD OF FUNDS. The treasurer shall keep the record of each fund separate.

11.03 COMPENSATION. The treasurer shall be paid such compensation as specified by resolution of the council.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 12 - CITY ATTORNEY

12.01 APPOINTMENT AND COMPENSATION. The city attorney shall be appointed by majority vote of the council and receive such compensation as shall be established by resolution.

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

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

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prosecution of any cause in court; and when so signed, the city shall be bound upon the same.

9. REVIEW CONTRACTS AND ORDINANCES. Make a written recommendation to the council and interested department heads concerning all contracts, documents, authorized power of the city officer, and ordinances submitted to him or her or coming under his or her notice before they go into effect.
10. POWER OF ATTORNEY. Sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 13 - CITY CLERK/ADMINISTRATOR

(Reserved for future use.)

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 14 - SUPERINTENDENT OF UTILITIES

14.01 SUPERINTENDENT OF UTILITIES. A superintendent of utilities shall be appointed by the council to serve at its pleasure and shall work under the direction of the council.

14.02 POWERS AND DUTIES. The powers and duties of the Superintendent of Utilities shall be as follows:

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

1. **AUTHORITY**. The Superintendent of Utilities shall serve as the electric superintendent, water superintendent, sewer superintendent and street superintendent.
2. **RECORDS**. Maintain written records of inspections of any utility as required by State and Federal Law or as required by the council.
3. **REPORTS**. Make to the mayor and council, oral or written reports on departmental activities as necessary or requested.
4. Any other powers and duties described in other ordinances.

14.03 POWERS AND DUTIES. In addition to assuming the duties of the Superintendent of Utilities, the Superintendent shall have the following other duties:

1. Shall serve as the Electric Superintendent, Water Superintendent, Sewer Superintendent, and Street Superintendent (includes the storm water system).
2. Make oral or written reports to the Mayor or Council as required.
3. Shall be responsible for the inspection of the transmission line and distribution system according to the Inspection Plan filed with the Iowa Utilities Board.
4. Shall be responsible for the maintenance of the transmission line and distribution system at all times.
5. Shall be responsible for the operation and maintenance of the electric plant, including stand-by generation.
6. See that the electric department vehicles/equipment are inspected and maintained as required.
7. Be familiar with the City's safety programs and see that safety equipment is properly used in the field and that employees have safe working conditions.

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8. Be responsible for the repair and maintenance of City owned equipment and vehicles, and safe operation of the same.
9. Maintain inventories of repair materials for all utilities and streets such as meters, wire, valves, water line, hydrants, poles, street signs, sign posts, etc.
10. Be responsible for the maintenance and operation of the water plant, wells, pumps, water distribution system, and water storage system.
11. Be responsible for the wastewater collection system including sewer mains, manholes, manhole inspection, lift stations, and the five cell lagoon system.
12. Be responsible for inspecting streets and alleys and make repairs and improvements as necessary and also recommend to the Mayor and Council any needed street improvements.
13. Assign tasks to full time field employees and part-time summer employees and assure the work is done and completed in an orderly, timely and efficient manner.
14. Promote Paullina Municipal Utilities in a positive manner.
15. Attend utility meetings to keep abreast of advances in utilities, new products, new rules/regulations, etc.
16. Shall evaluate field employees using an approved employee evaluation form.
17. Attend training as approved by City Council.
18. Perform any other duties as required by the Mayor or Council.
19. Shall have a valid Iowa Commercial Drivers License (CDL).
20. Shall be familiar with OSHA safety regulations as required on the job site.
21. Encouraged to attain a Grade II Water Certificate and a Grade II Waste Water Certificate.
22. Be first aid and CPR certified.
23. An electrical background would be a plus.
24. Shall be in charge of snow removal.
25. Shall be responsible for ordering materials/labor for all utilities.
26. Be responsible for utility reports.

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27. Computer skills are a plus.
28. Shall attend all council meetings.
29. Be responsible for monitoring Continuing Education requirement of employees.
30. Determine who shall attend training for each utility.
31. Shall coordinate with the City Clerk all activities of city employees.
32. Shall attend all official meetings of the city council and its committees; and to prepare in cooperation with the Mayor and City Clerk, the agenda and order of business for the city council and committee meetings.
33. Shall coordinate with the City Clerk the supervision, taking and recording of inventories.
34. Shall coordinate with the City Clerk purchasing of items as may be necessary, economical or advisable.
35. In cooperation with the City Clerk, be responsible for the training of city employees and for continuing education to retain any certification already earned, and shall keep a record of training and Continuing Education Units (CEU's) earned.
36. Shall take charge of all city-owned buildings and grounds; and in cooperation with the City Clerk, administer the operation, maintenance and improvements of all city-owned property, lands and buildings and be responsible for the security of same.
37. In cooperation with the City Clerk, have charge of the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for public works or public improvements, the cleaning, sprinkling, and lighting of streets, alleys and public places, the collection and disposal of wastes, and the preservation of tools, equipment, vehicles and appliances belonging to the Municipal Corporation.
38. In cooperation with the City Clerk, manage all municipal parks, airports and all municipal water, lighting, power plant and sewer facilities, and streets.
39. Shall supervise in cooperation with the City Clerk, the performance of all contracts for work to be done for the city, make all purchases of materials and supplies are received and are of the character and quality called for by the contract.
40. Represent the city in intergovernmental matters and affairs as directed by the Mayor and city council.

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41. In cooperation with the City Clerk, keep the city council informed of conditions of the city and of its future needs.

14.04 COMPENSATION. The Superintendent of Utilities shall be paid such compensation as specified by resolution of the council.

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

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 15 - POLICE DEPARTMENT

- 15.01 .PURPOSE. A police department is established for the purpose of providing for the preservation of peace and enforcement of the law within the corporate limits of the City of Paullina.
- 15.02 .APPOINTMENTS. The police chief shall be appointed by the mayor. The appointment and dismissal of the chief of police is subject to the consent of a majority of the council. Other officers shall be selected as directed by the council.
(Code of Iowa, Sec. 372.2)
- 15.03 .OATH. Every police officer shall take the oath prescribed in Title 1, Chapter 1, Section 6.02 before entering the duties of his or her office.
- 15.04 .QUALIFICATIONS. Any person recruited, selected or appointed as a police officer shall meet the qualifications required by the Code of Iowa, Sec. 80B.11.
- 15.05 .TRAINING. All officers shall have received the minimum training by law at an approved law enforcement training school within one year of employment.
(Code of Iowa, Sec. 80.11)
- 15.06 .BENEFITS. The following benefits shall be made available to the police officer:
1. UNIFORM ALLOWANCE. A sum per year shall be granted in order to purchase clothing meeting the standard color, style and quality specified by the city. Officers shall be responsible for the cleaning and repair of their uniforms. All items identifiable as the official uniform shall be returned to the City by an officer leaving the city's service.
 2. LIABILITY INSURANCE. The council shall contract to insure against liability of the City or any city officer for injuries, death or property damage arising out of and resulting from the performance of departmental duties.
- 15.07 .REMOVAL, DEMOTION AND SUSPENSION. A police officer may be removed, demoted or suspended by the police chief for violation of rules or regulations, but such officer shall have the right to a hearing before the city council. The police chief shall by written rules specify whether suspension, pay penalties or reprimands are penalties for specific types of offenses.

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

15.08 POWERS; DUTIES OF MEMBERS. It shall be the duty of the Chief of Police and of every member of the Police Department to preserve the peace and to enforce the laws of the State of Iowa and of the provisions of this Code, to protect persons and property, to guard the public health, to prevent crimes, and to arrest persons offending against the laws of the State, the provisions of this Code or the lawful orders of the police.

15.09 .POWERS AND DUTIES. The duties of a police chief shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. GENERAL. To protect the rights of persons and property, preserve order at public gatherings, prevent and abate nuisances and protect persons against every manner of unlawful disorder and offense.
2. ENFORCE LAWS. To enforce all laws, ordinances and regulations and bring all persons committing any offenses before the proper court.
3. COMMAND. To be responsible for the care, maintenance and use of all vehicles, equipment and materials of his or her department.
4. UNIFORM. To wear a metal badge engraved with the name of his or her office in plain view upon the outer garment of his or her uniform, which may be specified by the council.
5. ASSIST OFFICIALS. To aid other municipal officers, boards and commissions in the execution of their official duties upon request.
6. REPORTS. To report to the council and mayor upon request and immediately after July 1st submit to them an annual report on police activities for the preceding fiscal year.
7. SERGEANT-AT-ARMS. To be sergeant-at-arms of the council chamber when requested by the council.
8. WRITS. To execute and return all writs and other processes directed to him or her.
9. RECORD OF ARRESTS. To keep a record of all arrests made in the city, showing whether the arrests were made under the provisions of state law or city ordinance, the offense charged, the disposition of the charge and who made the arrest.
10. PRISONERS. To take custody of persons requiring detention and convey them to the county jail as provided by law and agreements with the county.
11. ACCIDENT REPORTS. To report all motor vehicle accidents, that require reports, investigated to the Iowa Department of Public Safety.

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12. INVESTIGATIONS. To investigate the violation of any laws or ordinance when necessary for the prosecution of the offender.
 13. SUBMIT BUDGET PROPOSAL. To submit to the clerk the budget proposal for his or her department by the date set by the clerk.
 14. RULES; REGULATIONS. The Chief of Police shall have the power and it shall be his or her duty to promulgate orders, rules and regulations for the operation of the department and for the conduct and guidance of the members of the Police Department, not inconsistent with the law or the provisions of this Code and shall see to the enforcement thereof.
- 15.10 .COMPENSATION. The compensation of a police chief shall be determined by the council.
(Code of Iowa, Sec. 372.13(4))
- 15.11 .RESERVE PEACE OFFICERS. The Council may provide for the establishment of a force of reserve peace officers, and may limit the size of the reserve force.
(Code of Iowa, Sec. 80D.1)
- 1.TRAINING. Each person appointed to serve as a reserve peace officer shallsatisfactorily complete a minimum training course as provided by the Code ofIowa.
(Code of Iowa, Sec. 80D.3)
 - 2.STATUS. Reserve peace officers shall serve on the orders and at the discretion ofthe chief of police. While in actual performance of official duties, reserve peaceofficers shall be vested with the same rights, privileges, obligations and duties asany other peace officers.
(Code of Iowa, Sec. 80D.6)
 - 3.SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in asupplementary capacity to the regular force and shall not assume full-time dutiesof regular peace officers without first complying with all requirements for regularpeace officers.
(Code of Iowa, Sec. 80D.8)
 - 4.UNIFORMS AND BENEFITS. Uniforms and benefits shall be provided toreserve peace officers as required by the Code of Iowa.
- 15.12 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.
(Code of Iowa, 804.18)

TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

- 5.13 GIVING OF TESTIMONY. It shall be the duty of each member of the Police Department to attend Police Court, the Grand Jury or any other court whenever called by the Chief of Police, Attorney, County Attorney or other law enforcement officer and to give testimony regarding facts within his or her knowledge.
- 5.14 JURISDICTION. The Police Department shall have jurisdiction and authority within the corporate limits of the City, over all property owned or controlled by the City outside the corporate boundaries of the City, and as otherwise provided by this Code and the Code of Iowa.

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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 16 - LIBRARY BOARD

- 16.01 PUBLIC LIBRARY. The free public library established for the City of Paullina is to be known as the Paullina Public Library.
- 16.02 BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees hereinafter referred to as the board, consists of five (5) resident members and two (2) non-resident members. All resident members are to be appointed by the mayor with the approval of the council. The non-resident members are to be appointed by the mayor with the approval of the County Board of Supervisors.
(Code of Iowa, Sec. 378.3 & 392.5)
- 16.03 QUALIFICATIONS. All resident members of the board shall be bona fide citizens and residents of the city. The non-resident member of the board shall be bona fide citizens and residents of the county. Resident and non-resident members shall be over the age of eighteen (18) years.
(Code of Iowa, Sec. 378.5 & 392.5)
- 16.04 TERMS. Of the five board members, one member shall hold office for two years, two for four years, and two for six years, from the first day of July following the establishment of the board. At the board's first meeting, members shall cast lots for the respective terms, reporting the result to the council. All subsequent terms and appointments thereto shall be for six years each, except to fill vacancies.
- 16.05 VACANCIES. A board position shall become vacant if the trustee moves permanently from the city, or is absent from six (6) consecutive regular board meetings, except in the case of illness or temporary excused absence from the city. Two (2) vacancies shall be filled by appointment of the mayor with council approval, and the new trustee shall fill the unexpired term for which the appointment was made.
- 16.06 COMPENSATION. Trustees shall receive no compensation for their services.
(Code of Iowa, Sec. 378.8; Code of Iowa, Sec. 392.5)
- 16.07 POWERS AND DUTIES. The board shall have the following powers and duties:
1. OFFICERS. To meet and elect from its members a president, a secretary and such other officers as it deems necessary. The city treasurer shall serve as board treasurer, but shall not be a member of the board.
(Code of Iowa, Sec. 378.17 & 392.5)

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2. RESPONSIBLE FOR LIBRARY. Take charge, control, and supervision of the public library, its appurtenances, fixtures, and rooms for library purposes.
3. DIRECT AFFAIRS. Direct and control library affairs.
4. HIRING OF PERSONNEL. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.
(Code of Iowa, Sec. 378.10(3); Code of Iowa, Sec. 392.5)
5. REMOVAL OF PERSONNEL. To remove the librarian, by a two-thirds (2/3) vote of the board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 70, Code of Iowa.
(Code of Iowa, Sec. 378.10(4); Code of Iowa, Sec. 392.5)
6. SELECT LIBRARY MATERIALS. Select, or authorize the librarian to select, and make purchases of all library materials and supplies, within budgetary units set by the board.
7. NONRESIDENT USE. Authorize the use of the library by nonresidents of the city and to fix charges thereof.
8. FUNDS. Have exclusive control of all expenditures for library purposes including all monies available by gift or otherwise within council appropriations for library services.
9. GIFTS. Accept and control the expenditure of all gifts, devises, and bequests to the library, and require the council to appropriate such monies to the library.
(Code of Iowa, Sec. 392.5)
10. RULES AND REGULATIONS. Make and adopt, amend, modify, or repeal rules and regulations for the care, use, and management of the library, and prescribe penalties for rule violations.
11. RECORD. Keep a record of its proceedings.
12. HISTORICAL ASSOCIATIONS. May make agreements with local county historical associations when applicable, to set apart room for and care for articles of historical or educational interest in the possession of the association, and purchase with library funds such materials necessary to preserve and protect such articles.

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- 16.08 POWER TO CONTRACT. The board may contract with any other board of trustees of a free public library and any school, corporation, city, and county. If there is a county library district, the city may contract with it for the use of the library by city residents. Such contract may be terminated at any time by mutual consent of the contracting parties, or by a majority vote of the electors represented by either contracting party.
- 16.09 TERMINATION OF CONTRACT. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.
(Code of Iowa, Sec. 378.13; Code of Iowa, Sec. 392.5)
- 16.10 NONRESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by nonresidents by:
1. TERMS OF LOAN. Lending library materials to nonresidents on the same terms as to residents of the city, or upon payment of a special nonresident fee.
 2. DEPOSITORIES. Establishing depositories of library materials to be loaned to nonresidents.
 3. BOOKMOBILES. Establishing bookmobiles or a traveling library.
 4. BRANCH LIBRARIES. Establishing branch libraries.
- 16.11 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. 378.17, 384.20 & 392.5)
- 16.12 ANNUAL REPORT. The board shall submit an annual comprehensive report to the council after the close of the municipal fiscal year.
- 16.13 OPEN MEETINGS. All meetings of the library board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.

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

(Code of Iowa, Sec. 716.1)

16.15 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)

16.16 NOTICE POSTED. There shall be posted in clear public view within the library a notice stating:

1. FAILURE TO RETURN. Failure to return library materials for two (2) months after the date the person agreed to return library materials or failure to return library equipment for one (1) month after the date the person agreed to return to the library equipment, intent to deprive the owner, provided a reasonable attempt has been made to reclaim the materials or equipment including mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken.

(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)

16.17 LIBRARY MATERIALS. Library materials include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:

- a. A public library.
- b. A library of an educational, historical, or eleemosynary institution, organization, or society.
- c. A museum.
- d. A repository of public records.

(Iowa Code, Sec. 702.22(1))

16.18 LIBRARY EQUIPMENT. Library equipment includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in section 16.17 of this Article.

(Iowa Code, Sec. 702.22(2))

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- 16.19 INJURY TO BOOKS OR PROPERTY. It shall be unlawful for a person to willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any library materials (i.e. newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the library or reading room), or equipment.
- 16.20 THEFT OF LIBRARY MATERIALS. The fact that a person has concealed library materials or equipment as defined in sections 16.17 and 16.18 of this Chapter, or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if person conceals or causes to be concealed library materials or unpurchased property, upon the person or among the belongings of another, the finding of the same is also material evidence of intent to deprive on the part of the person concealing the library materials or goods.
- 16.21 DETENTION AND SEARCH.
1. Persons concealing property as set forth in section 16.20 may be detained and searched by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee, provided that the detention is for a reasonable length of time and that the search is conducted in a reasonable manner by a person of the same sex and according to subsection 2 of this section.
 2. No search of the person under this section shall be conducted by any person other than someone acting under the direction of a peace officer except where permission of the one to be searched has first been obtained.
 3. The detention or search under this section by a peace officer, person employed in a facility containing library materials, merchant or merchant's employee does not render the person liable, in a criminal or civil action, for false arrest or false imprisonment provided the person conducting the search or detention had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property set forth in section 16.20.
- 16.17 VIOLATIONS NOT MUNICIPAL INFRACTIONS. Violations of Sections 16.12 through 16.14 inclusive are not municipal infractions and are subject upon prosecution to incarceration.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 17 - FIRE DEPARTMENT

- 17.01 PURPOSE. A volunteer fire department is established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.
- 17.02 ORGANIZATION. The department shall consist of the fire chief and such other officers and personnel as may be authorized by the council.
(Code of Iowa, Sec. 372.13(4))
- 17.03 QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:
1. RESIDENT CITIZEN. Is a citizen of the United States.
 2. AGE. Is at least eighteen (18) years of age.
 3. DRIVER'S LICENSE. Has a current active Iowa driver's license.
 4. ALCOHOL AND DRUGS. Is not a drug addict or drunkard.
 5. EDUCATION. Is a high school graduate with a diploma, or possesses an equivalency certificate acceptable by the State Department of Public Instruction.
 6. HEALTH. Prior to appointment, and each four (4) years thereafter, has been examined by a physician to determine if free from physical, emotional or mental condition which might adversely affect the performance of duties.
 7. CHARACTER. Is a good moral character and has not been convicted of a felony.
- 17.04 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the chief.
- 17.05 ELECTION OF OFFICERS. The department shall elect a chief and such other officers as necessary, but the election of 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 chief.

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- 17.06 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for workmen's compensation and against liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract.
(Code of Iowa, Sec. 85.2, 85.61, 410.18 & 517A.1)
- 17.07 LIABILITY INSURANCE. The council shall contract to insure against liability of the city or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the city.
(Code of Iowa, Sec. 613A.2 & 517A.1)
- 17.08 OATH. The fire chief, before entering upon the duties of his or her office, shall qualify for office by taking the oath prescribed by this Code of Ordinances.
- 17.09 FIRES OUTSIDE THE 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))
- 17.10 MUTUAL AID. Subject to approval by resolution of the council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the clerk.
(Code of Iowa, Sec. 364.4(2&3))
- 17.11 POWERS AND DUTIES. The duties of the fire chief shall be as follows:
1. DIRECT DEPARTMENT. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the fire chief.
 2. ENFORCE DEPARTMENT REGULATIONS. Enforce all rules and regulations established by the council for the conduct of the affairs of the fire department.
 3. CONTROL DEPARTMENT 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.
 4. KEEP RECORDS. Keep records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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5. **REPORTS.** Make monthly written reports to the mayor and council concerning the general status and efficiency of the fire department, the number of alarms answered during the previous month, and any additional information. The fire chief shall compile and file with the mayor an annual report summarizing the department's activities for the year and containing recommendations for improvements in the department.
6. **ENFORCE ORDINANCES AND STATE LAWS.** Enforce all ordinances and, here enabled, state laws regulating the following:
 - a. Fire prevention
 - b. Maintenance and use of fire escapes
 - c. The investigation of the cause, origin and circumstances of fires
 - d. The means and adequacy of exit in case of fire from halls, theaters, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose
 - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
7. **RIGHT OF ENTRY.** Have the right of entry into any building or premises within his jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The fire chief shall conduct such investigation or inspection that he or she considers necessary in light of state law, regulation or ordinance.
8. **MAKE RECOMMENDATIONS.** Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
9. **AID STATE FIRE MARSHAL.** Aid the state fire marshal when requested in the performance of his duties by investigating, preventing and reporting data pertaining to fires.
10. **APPOINT FIREMEN.** 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.
11. **INVESTIGATIONS.** Investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. If death, serious bodily injury or property damage in excess of two hundred thousand dollars occurs as a result of a fire, or if arson is suspected, the person shall notify the state fire marshal's division immediately. Within ten (10) days following the end of each month the chief shall file a report of all fire incidents with the state fire marshal's division in the form required by the state fire marshal.

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12. **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 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).
13. **CONTROL OF SCENE** 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)
14. **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 effort 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)
15. **TECHNICAL ASSISTANCE.** Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.
- 17.12 **COMPENSATION.** Members of the department shall attend and actively participate in regular or special training drills or programs as directed by the chief.
(Code of Iowa, Sec. 372.13(4))
- 17.13 **EMERGENCY AMBULANCE SERVICE.** The department is authorized to provide emergency ambulance or rescue services and the accidental injury and liability insurance provided for herein shall include such operation.
- 17.14 **DEPARTMENTAL RULES.** The fire 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 including rules governing the following:
 1. **Rules of Conduct.** The conduct and activity of members of the department during regular and off-duty hours.
 2. **Communication.** The procedures, use and care of the radio and other communication systems.
 3. **Training.** The nature, time and attendance requirements for in-service training of members of the department.

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4. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the council.
 5. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.
 6. Penalties. The penalties which may be imposed for violation of established departmental rules by members.
 7. Notice. The fire chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation and the penalty imposed.
 8. Appeal. A member of the department charged with a violation of rules may request a hearing before the council by filing notice of appeal with the clerk within ten (10) days of receipt of notice of violation. The council, at its next meeting shall review the facts and affirm, modify or revoke the action of the fire chief.
(Code of Iowa, Sec. 364.1 & 372.13(4))
- 17.15 FEES ESTABLISHED. The fee for fire services furnished within or without the City shall be established by resolution of the council.
- 17.16 PAYMENT OF FEES. All fire service fees shall be due and payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service and shall be paid to the clerk. Actions for collection of fees and charges shall be brought in the name of the City after authorization of commencement of action by the Council in the same manner as actions at law.
- (Editor's Note: Ordinance 15, adopted February 6, 2006 established Sections 17.15 and 17.16.)
- 17.17 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.
- 17.18 FIRE EXTINGUISHERS. The provisions of state law requiring fire extinguishers in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, hotels, motels, or multi-family dwellings with three or more dwelling units are adopted by reference and the city fire marshal shall enforce their requirements as they appear in IAC 661, Chapter 5. Portable fire extinguishers shall also be provided in retail stores, warehouses, and industrial establishments, with not less than one (1) such extinguisher on each floor of a building and located so that no person will have to travel more than seventy-five (75) feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in a building and may be required by the city fire marshal in areas that constitute a special hazard. The type and size of portable fire extinguishers shall be determined by the

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city fire marshal for the named commercial and industrial buildings in accordance with best practice as advised by the state fire marshal and the insurance industry.

17.19 STORAGE OF HAZARDOUS SUBSTANCES.

1. **EXPLOSIVES.** No person shall store explosives, as defined by state law and rules promulgated thereunder, classified as Class A, Class B, or Class C explosives by the Federal Department of Transportation, within the fire limits without a permit from the city fire marshal except for quantities of twenty-five (25) pounds or less of smokeless powder or five (5) pounds or less of black powder for use in small arms, but a permit shall not be required for retail stocks of small arms ammunition for small bore rifles or shotguns customarily used in wild game hunting, or for target practice or skeet shooting. The city fire marshal shall have the power to limit the quantities of other explosives for which a permit is requested, but shall not grant permits for liquid nitroglycerin, dynamite with over 60% of liquid explosive ingredient, unstable types of dynamite, nitrocellulose, fulminate of mercury, explosive compositions that ignite spontaneously or markedly decompose to become more hazardous when subjected to 48 consecutive hours at a temperature of 167 degrees F.
2. **FLAMMABLE AND COMBUSTIBLE LIQUIDS.** The regulations for the storage and handling of flammable and combustible liquids as set forth in IAC 661, Chapter 51 are adopted by reference and shall be enforced by the city fire marshal. No flammable or combustible liquid shall be dispensed from underground tanks in residential areas except in public garages or motor fuel (service) stations which exist as legally nonconforming uses under the zoning chapter.
3. **LIQUEFIED PETROLEUM GASES.** The regulations for the storage and handling of liquefied petroleum gases as set forth in IAC 661, Chapter 51 are adopted by reference and shall be enforced by the city fire marshal, and no installation exceeding 900 pound capacity shall be made without a city permit, conditioned on compliance with said state rules, issued by the city's fire chief.

17.20 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his or her duty at, or going to, or returning from a fire, or while attending to his or her duties as a member of the fire department.

17.21 DAMAGING FIRE DEPARTMENT PROPERTY. It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.

17.22 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.

17.23 DRIVING OVER FIRE HOSE. It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any fire department official.

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17.24 ASSISTING FIREMEN. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in his or her place.

17.25 PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person having charge of any of the fire apparatus belonging to the city to allow or permit the same to be used for private benefit.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 18 - PLANNING AND ZONING COMMISSION

- 18.01 PLANNING AND ZONING COMMISSION CREATED. There is hereby created a city planning and zoning commission composed of five residents of the city who shall be qualified by knowledge and experience to act in matters pertaining to the development of city planning and zoning, none of whom shall hold any elective position in the city. Such member of the commission shall be appointed by the council. If the jurisdiction of the city zoning ordinance is extended beyond the city limits into O'Brien County, there shall be added to the commission two nonresident members for overlapping three-year terms. All members shall have the same rights, privileges and duties regardless of residency.
- 18.02 TERM OF OFFICE. The term of office of commission members shall be three years, except that the members first named shall hold office for such terms not exceeding three years, that the terms of not more than one-third of the members will expire in any one year. Any vacancy occurring on the commission, caused by resignation or otherwise, shall be filled by the council for the unexpired term. All members of such commission shall serve without compensation except their actual expenses which shall be subject to the approval of the council. The commission shall choose annually at its first regular meeting one of its members to act as chairman and another as vice-chairman to serve in the absence of the chairman.
- 18.03 POWERS. Said commission shall have and possess the following powers and such powers as may be incidental to the successful carrying out of the powers invested in it herein or such as may be expressly conferred upon it by law:
1. PLANS. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.
 2. ZONING PLAN. To prepare a plan for zoning regarding the height, number of stories, and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes and to this end shall prepare a preliminary report and hold public meetings thereon and after such hearings have been held, to submit its final report and recommendations to the city council.
 3. RECOMMEND CHANGES. To recommend to the council, from time to time, as conditions require, amendments, supplements, changes, or modifications in the comprehensive plan prepared by it, and recommend changes to the zoning regulations.

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4. OFFICIAL MAP. To study and make recommendations on all subdivisions submitted for approval to the city and to make surveys and plans for an official map as a guideline for such approval.
5. TRENDS. To study trends of development in industrial, physical and social aspects of the community and make such reports as it may deem necessary.
6. SURVEY. To survey street and traffic problems and make recommendations thereon to the mayor and council.
7. RECOMMENDATIONS. To review and make recommendations on proposed vacations of streets and alleys.
8. OPEN MEETING. All meetings of the Planning and Zoning Commission shall comply with the regulations stated in Chapter 21 of the Code of Iowa.

(Editor's Note Ordinance 10 was adopted by Council on August 15, 2005, establishing a Planning & Zoning Commission in Article 18.)

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 19 - BUDGET

- 19.01 PURPOSE. The purpose of this article is to establish policies and provide for rules and regulations governing the management of the financial affairs of the City.
- 19.02 FINANCE OFFICER. The city clerk shall be the finance and accounting officer of the city and shall be responsible for the administration of the provisions of this chapter.
- 19.03 PREPARATION. The annual operating budget of the city shall be prepared in accordance with the following:
1. ANNUAL BUDGET BY CLERK. The clerk shall be responsible for preparation of the annual budget detail of revenues and expenditures, for review and adoption by the council in accordance with directives of the mayor and council.
(Code of Iowa, Sec. 384.16)
 2. BOARDS AND COMMISSIONS BUDGETS. All boards, commissions, and other administrative agencies of the city that are authorized to prepare and administer budgets must submit their budget proposals to the clerk for consideration in the proposed city budget no later than February 1 of each year and in such form as may be required by the clerk.
(Code of Iowa, Sec. 384.20)
 3. SUBMISSION TO COUNCIL. The clerk shall submit the completed budget proposal to the council no later than February 15 of each year.
 4. COUNCIL REVIEW. The mayor and council shall review the proposed budget and may make any adjustments in the budget which they deem appropriate before accepting such proposal for publication of notice, 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 no 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))

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6. COPIES OF BUDGET. Not less than twenty (20) days before the date that a budget must be certified to the county auditor and not less than ten (10) days before the date set for the 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, if any, or have a copy posted at one of the three places designated by ordinance for posting notices if there is no library.

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

7. PROTEST. At the hearing, any resident or taxpayer of the city may present to the council objections or arguments in favor of any part of the budget for the following fiscal year.

(Code of Iowa, Sec. 384.16(4))

8. 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))

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

(Code of Iowa, Sec. 384.18)

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

2. TRANSFER OF APPROPRIATION BETWEEN PROGRAMS. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.

(Code of Iowa, Sec. 384.18(4))

3. TRANSFER WITHIN PROGRAMS. When the clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures, the clerk shall inform the council; or if the council upon its own investigation so determines, and another account within the same program has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation, which alone or with the other account can provide the needed appropriations, the council shall set forth by resolution the reductions and increases in the appropriations and the reason for such

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

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

4. TRANSFER BETWEEN FUNDS. Transfers between funds may be approved by council resolution or as planned in the budget if permitted or required by law.
5. ACTIVITY TRANSFERS. The clerk shall have the authority to adjust, by transfer or otherwise, the appropriation allocated to activities within a program or sub-program provided, however, that when such adjustment in any one activity aggregate Five Hundred Dollars (\$500.00) or ten percent (10%) of the amount appropriated, whichever is greater, no further adjustments shall be made without approval by resolution of the council. All such transfers shall be reported in writing at the next regular meeting of the council following the transfer and recorded in the minutes for the information of the council and general public.

(IAC, 1984, 230-2.4 (384, 388))

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ARTICLE 20 - FUNDS

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

1. REVENUES. All monies received by the city shall be credited to the proper fund as required by law, ordinance, or resolution.
(Code of Iowa, Sec. 384.3)
2. EXPENDITURES. No disbursements shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, or was properly budgeted and supported by a claim approved by the council.
3. EMERGENCY FUND. No transfer may be made from any fund to the Emergency Fund.
(IAC, 545-2.5(384,388), Sec. 2.5(3))
4. DEBT SERVICE FUND. Except where specifically prohibited by state law, monies may be transferred from any other city fund to the Debt Service Fund to meet payments of principle and interest. Such transfers must be authorized by 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, monies may be transferred from any city fund to the Capital Improvements Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.
(IAC, 545-2.5(384,388), Sec. 2.5(3))
6. BALANCING OF FUNDS. The clerk and treasurer shall reconcile their fund accounts at the close of each month and submit a report thereof to the council.
7. 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 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 principals (GAAP) in excess of:

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- A. The amount of the expense 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))

20.02 CASH CONTROL. To assure the proper accounting and safe custody on monies the following shall apply:

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

(Code of Iowa, Sec. 721.2(2))

- 2. Bank Deposits. All monies belonging to the city shall be promptly deposited in banks selected by the council in amounts not exceeding the authorized depository limitation established by the council.
- 3. Change Fund. The clerk is authorized to draw a check on the Utility Fund for establishing a Change Fund in the amount of One Hundred Two Dollars and Fifty Cents (\$102.50) for the purpose of making change without co-mingling other funds to meet the requirements of said office. Said Change Funds shall be in the custody of the clerk, and the clerk shall maintain the integrity of the fund.

20.03 SPECIAL FUNDS; CASH FUNDS.

- 1. PETTY CASH FUND. The clerk shall be custodian of a petty cash fund not to exceed one hundred and two dollars (\$102.00) for the payment of small claims for minor purchases, collect-on-delivery, transportation charges, and small fees customarily paid at the time of rendering a service. The clerk shall obtain some form of receipt or bill acknowledging payment by the vendor of his or her agent.

At such time as the petty cash fund is approaching depletion, the clerk shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

(Code of Iowa, Sec. 384.9)

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

(Code of Iowa, Sec. 384.89)

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ARTICLE 21 - ACCOUNTING

- 21.01 BOOKS OF ORIGINAL ENTRY. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
- 21.02 GENERAL LEDGER. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts, and for recording unappropriated surpluses.
- 21.03 CHECKS. Checks shall be renumbered and signed by the clerk following council approval, except as provided by Section 21.05 hereof.
- 21.04 BUDGET ACCOUNTS. There shall be established such individual accounts to record receipts by source and expenditures by program, subprogram 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.
(Code of Iowa, Sec. 384.20)
- 21.05 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.
- 21.06 UTILITIES. The clerk shall perform and be responsible for accounting functions of the municipally-owned utilities.
- 21.07 INVESTMENT OF FUNDS. The Council shall establish an Investment Policy to comply with the standards set in Chapter 12B of the Code of Iowa. Copies of this Investment Policy shall be distributed to all appropriate officials.

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ARTICLE 22 - FINANCIAL REPORTS

- 22.01 MONTHLY REPORTS. There shall be submitted to the council at the first meeting of each month a report showing the activity and status of each fund, program, subprogram, and activity for the preceding month.
- 22.02 ANNUAL REPORT. Not later than December 1 of each year, a city shall publish an annual report as provided in Title I, Section 10.06 of this Code, 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. The report shall be prepared on forms and pursuant to instructions prescribed by the auditor of state. A copy of this report must be filed with the Auditor of State not later than December 1 of each year.
(Code of Iowa, Sec. 384.22)
- 22.03 CONTINGENCY ACCOUNT. Whenever the council shall have budgeted for a contingency account such an account shall be established in the accounting records but no claim shall be paid from such an account. Contingency accounts may be drawn upon only by council resolution directing a transfer to a specific purpose account within its fund and program and then only upon compelling evidence of an unexpected unforeseeable need or emergency.
- 22.04 UNAUTHORIZED EXPENDITURE. No city official or employee, or any person acting under color of such office or employment, shall knowingly make any contract or authorize any expenditure known by him or her or her to be in excess of that authorized by law.
(Code of Iowa, Sec. 721.2(1))

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ARTICLE 23 - PURCHASING

23.01 DEFINITIONS. As used in this chapter, unless the context clearly indicates otherwise:

1. "Estimated total cost of a public improvement" or "estimated total cost" means the estimated total cost to the governmental entity to construct a public improvement, including cost of labor, materials, equipment, and supplies, but excluding the cost of architectural or engineering design services and inspection.
2. "Governmental entity" means the state, political subdivisions of the state, public school corporations, and all officers, boards, or commissions empowered by law to enter into contracts for the construction of public improvements, excluding the state board of regents and the state department of transportation.
3. "Public improvement" means a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under Code of Iowa, Chapter 419, emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding a highway, bridge, or culvert project, and excluding construction or repair or maintenance work performed for a city utility under Code of Iowa, Chapter 388 by its employees or performed for a rural water district under Code of Iowa, Chapter 357A by its employees.
4. "Repair or maintenance work" means the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility to its original condition with the same design.

23.02 COMPETITIVE BIDS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars (\$100,000), or the adjusted competitive bid threshold established in Code of Iowa, section 314.1B, the governmental entity shall advertise for sealed bids for the proposed public improvement by publishing a notice to bidders as provided in Code of Iowa, section 362.3. The notice to bidders shall be published more than twenty days but not more than forty-five days before the date for filing bids.
2. A governmental entity shall have an engineer licensed under chapter Code of Iowa, Chapter 542B or an architect registered under Code of Iowa, Chapter 544A prepare plans

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and specifications, and calculate the estimated total cost of a proposed public improvement.

- 23.03 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS. Architectural or engineering design services procured for a public improvement are not subject competitive bid requirements.
- 23.04 PROHIBITED CONTRACTS. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or as established in Code of Iowa, section 314.1B, a governmental entity shall not divide the public improvement project into separate parts, regardless of intent, if a resulting part of the public improvement project is not let in accordance with section.
- 23.05 PROCEDURES FOR COMPETITIVE BID LETTING. The City will follow Code of Iowa, Chapter 38 for competitive bid letting pertaining to Bid Security, Notice to Bidders, Bid Security, Award of Contract, Opening and Considering Bids, Delegation of Authority and When a Hearing is Necessary.
- 23.06 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.
1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the amount provided in this section, but is less than the competitive bid threshold established in Section 23.02 of this Code.
 2. The City will adhere to the competitive bid quotation threshold dollar amount set by the State of Iowa Bid Threshold Committee and this dollar amount is subject to annual adjustments by the Committee pursuant to Code of Iowa, section 314.1B.
 3. a. When a competitive quotation is required, the governmental entity shall make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations may be obtained from contractors after the governmental entity provides a description of the work to be performed, including the plans and specifications prepared by an architect or engineer, if required under Code of Iowa, Chapter 542B or 544A, and an opportunity to inspect the work site. The contractor shall include in the quotation the price for labor, materials, equipment, and supplies required to perform the work. If the work can be performed by an employee or employees of the governmental entity, the governmental entity may file a quotation for the work to be performed in the same manner as a contractor.
 - b. The governmental entity shall designate the time, place, and manner for filing quotations, which may be received by mail, facsimile, or electronic mail. The governmental entity shall record the approved quotation in meeting minutes. Quotations approved outside a meeting of the governing body of a governmental

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entity shall be included in the minutes of the next meeting of the governing body. The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section, or the governmental entity may reject all of the quotations.

- c. If a public improvement may be performed by an employee of the governmental entity, the amount of estimated sales and fuel tax which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsible bidder. If no quotations are received to perform the work, or if the governmental entity's estimated cost to do the work with its employee is less than the lowest responsive, responsible quotation received, the governmental entity may authorize its employee or employees to perform the work.

23.07 HORIZONTAL INFRASTRUCTURE. The State of Iowa Horizontal Infrastructure Bid Threshold Subcommittee for highway, bridge, or culvert projects will review the competitive bid thresholds applicable to city and county highway, bridge, and culvert projects. The subcommittee shall review price adjustments for all types of city and county highway, bridge, and culvert construction, reconstruction, and improvement projects, based on changes in the construction price index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments. The City will base its bid threshold for highway, bridge, or culvert projects as set by the Committee.

(Code of Iowa, Sec. 314.1A & Sec. 314.1B)

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

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

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

1. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to materials generating from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by the Code of Iowa.

(Code of Iowa, 455B.301 (20))

a. Garbage means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

b. Refuse means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.

(IAC, 567-100.2)

c. Rubbish means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

2. "Residential Waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.

(IAC, 567-20.2)

3. "Landscape Waste" means any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

(IAC, 567-20.2 & Iowa Code, Sec. 455B)

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4. "Toxic and Hazardous Wastes" means waste materials including, but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes, which require special handling and careful disposal to conserve the environment and protect the public health and safety.
(IAC, 567-100.2)
 - a. Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
 - b. Poses a substantial present or potential hazard to human health or the environment when improperly stored, transported or disposed of or otherwise managed.
5. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361(1))
6. "Rubble" means stone, brick, or similar inorganic material.
(IAC, 567-100.2)
7. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.
(IAC, 567-20.2)
8. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
(IAC, 567-20.2)
9. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
(IAC, 567-100.2)
10. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361(2))
11. "Sanitary Disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.
(IAC, 567-100.2)
12. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.
(Code of Iowa, Sec. 455B.301 & 455B.301(18))

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13. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.

(IAC, 567-100.2)

14. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.

(IAC, 567-20.2)

15. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).

16. "Owner" means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

17. "Yard Wastes" means debris such as grass, grass clippings, weeds, leaves, seeds, seed pods, garden waste, brush and trees or brush or tree trimmings, branches, shrubbery or other yard trimmings but does not include tree stumps.

18. "Executive Director or Director" means the executive director of the Department of Natural Resources or a designee.

1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

1.05 OPEN BURNING. No person shall allow, cause or permit open burning of combustible materials. The following shall be permitted exceptions:

(IAC, 567-23.2)

1. DISASTER RUBBISH. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2(3a))

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2. DISEASED TREES. The open burning of diseased trees; however, when the burning of diseased trees causes a nuisance, appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.

(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 EPC of the IDNR.

(IAC, 567-23.2(3c))

4. LANDSCAPE WASTE. The disposal by open burning of landscape waste originating on the premises; however, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2(3d))

5. RECREATIONAL FIRES. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the EPC of the IDNR.

(IAC, 567-23.2(3e))

6. TRAINING FIRES. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the Executive Director of the EPC of the IDNR receives notice in writing at least one (1) week before such action commences.

(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. No person shall kindle or maintain any premises fire or authorize any such fire to be kindled or maintained on any private land unless (i) the location is not less than fifty (50) feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (ii) the fire is contained in an approved waste burner located safely not less than fifteen (15) feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use. The Fire Chief may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

(IAC, 567-23.2(2))

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8. **Controlled Burning of a Demolished Building.** The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

- 1.06 **LITTERING PROHIBITED.** No person shall discard any litter on or in any water or land, except when and where authorized. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Iowa Code Sec. 455B.363)

- 1.07 **OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of IDNR, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director or a designee of the Iowa Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

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

- 1.08 **TOXIC AND HAZARDOUS WASTES.** No person shall dump or deposit, or permit the dumping or depositing of toxic or hazardous wastes except in accordance with the Code of Iowa.

(Code of Iowa, Sec. 455B.411-455B.421)

1. **Labeling.** All containers used for the storage, collection or transportation of toxic or hazardous wastes shall be plainly marked so as to provide adequate notice of the contents thereof.
2. **Vehicles and Containers.** All vehicles and containers used for the storage, collection and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety and in compliance with federal and state laws, rules and regulations.
3. **Disposal.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous wastes. Such materials shall be transported by the owner, responsible person or his or her agent, to a place of safe deposit or disposal as prescribed by the executive director of the State Department of Natural Resources.

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1.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit, or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. CONTAINER SPECIFICATION.

- a. Residential waste containers will be provided by Town and Country Disposal and will be a blue wheeled cart. If a second cart is needed, it is up to the property owner to make arrangements privately with Town and Country.
- b. Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

Editor's Note: Section 1.09 (1) (a) Waste Storage Containers was amended by Council on April 18, 2016 as Ord. # 43.

2. LOCATION OF CONTAINERS. Residential solid-waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the city to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public-health personnel, and fire-inspection personnel.

3. NONCONFORMING CONTAINERS. Solid waste containers, which are not approved, will be collected together with their contents and disposed of after due notice to the owner.

1.10 STORAGE OF YARD WASTES. All yard wastes shall be separated and maintained so as to prevent co-mingling with other solid waste as defined herein. Collection and disposal of yard wastes shall be by separate arrangement of the owner, and shall not be placed in solid waste containers for collection as provided by the collection and transportation provisions of these ordinances.

Editor's Note: Ordinance 239, approved on April 16, 2001, amended Section 1.10.

1.11 SANITARY DISPOSAL REQUIRED OF OWNER. It shall be 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 nuisance or by initiating proper action in district court.

(Code of Iowa, Sec. 657.2)

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

1. **UNLAWFUL USE OF CONTAINERS.** Deposit refuse in any solid-waste containers other than the person's own without the written consent of the owner of such containers.
2. **INTERFERE WITH COLLECTORS.** Interfere in any manner with solid waste collection equipment or with solid-waste collectors in the lawful performance of their duties, whether such equipment or collectors be those of the city or those of any other authorized waste-collection service.
3. **UNLAWFUL DISPOSAL.** Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. **UNLAWFUL COLLECTION.** Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract with the city, or possessing a city solid waste hauler permit.
5. **INCINERATORS.** Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.
6. **FAILURE TO SEPARATE YARD WASTES.** Failure to separate yard wastes pursuant to section 1.10 and a violation of this section shall be a municipal infraction.
7. **SCAVENGING.** Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
 - a. An exception is the City allows scavenging of unwanted items (not garbage) placed between the curb and sidewalk (parking area or terrace) during City designated "cleanup days". Scavenging in trashcans, garbage can, a dumpster, or garbage bag is prohibited.

1.13 LOCATION OF CONTAINERS. Containers for the storage of solid wastes awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid wastes 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.

1.14 WIND-BLOWN REFUSE. It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.

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- 1.15 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES. It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the city without the consent of the owner or tenant in possession thereof. For the purpose of this section vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.
- 1.16 DEBRIS ON STREETS. It shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley or sidewalk or other public place in the city.
- 1.17 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS. It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the city.
- 1.18 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 2 - COLLECTION AND TRANSPORTATION OF SOLID WASTE

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

1. "Solid Waste Collection" shall mean the gathering of solid wastes from public and private places.
(IAC, 567-100.2)
2. "Solid Waste Transportation" shall mean the conveying of solid waste from one place to another by means of vehicle, rail, car, water vessel, conveyor, or other means.
(IAC, 567-100.2)
3. "Residential Premises." A single family dwelling and any multiple family dwelling up to and including six (6) to eight (8) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of each such apartments or units which may be included in a given housing development.
4. "Single-family Dwelling" shall mean a structure containing one dwelling unit only.
5. "Multiple-family Dwelling" shall mean a structure containing more than one dwelling unit.
6. "Dwelling Unit." Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
7. "Property Served." Any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided by this chapter.
8. "Collectors." Any person authorized by the city to gather solid waste from public and private places.

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

(Code of Iowa, Sec. 455.302)

2.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

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- 2.04 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.
- 2.05 LOCATION OF CONTAINERS. Containers for the storage of solid wastes awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid wastes 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.
- 2.06 FREQUENCY OF COLLECTION. All refuse shall be collected from residential premises at least once a week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.
- 2.07 BULKY SOLID WASTE OR CONSTRUCTION MATERIALS. Bulky rubbish or construction materials which are too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

(Ordinance 44, approved on April 18, 2016 amended Section 2.07)

- 2.08 TREE LIMBS AND BRUSH. Tree limbs and brush shall not be co-mingled with solid waste and shall be disposed of by the owner.
- 2.09 YARD WASTES. Yard waste shall not be co-mingled with solid waste, and shall be properly disposed of by the owner.

Editor's Note: Ordinance 239, approved on April 16, 2001, amended Sections 2.07, 2.08 & 2.09.

- 2.10 RIGHT OF ENTRY. Solid waste collectors are authorized to enter upon private property for the purpose of collecting refuse as required by this chapter. However, solid waste collectors shall not enter dwelling units or other residential buildings.
- 2.11 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than the person's own within the City without first obtaining from the City an annual contract in accordance to the following:
(Code of Iowa, Sec. 455B.302)
1. REQUIRED INFORMATION. The following information shall be required on the contract with the city:
 - a. Name and address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers.

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- b. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - c. Collection program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - d. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. INSURANCE. No collector's contract shall be entered into unless the applicant shall file and maintain with the city, in addition to all other requirements, evidence of satisfactory public liability insurance. This insurance must cover all pertinent operations of the applicant related to the business, equipment and vehicles to be operated in the following minimum amounts:

Combined single limit of liability - \$500,000

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

Editor's Note: Ordinance 230, approved May 3, 1999, which amended Section 2.11(2))

3. LICENSE FEE. A twenty-five dollar (\$25) fee shall be required of every solid waste hauler, whether or not covered by a city solid waste contract.
4. LICENSE ISSUED. If the council, upon investigation, finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with lawn and ordinance, the requested license shall be used to be effective for a period on one (1) year from the date approved, provided, however, there shall be no more than one collector licensed to operate within the city at any one time.
5. OWNER MAY TRANSPORT. Nothing within this chapter is to be construed as to prevent an owner from transporting solid waste accumulating upon premises owned, occupied or used by the owner, provided such refuse is disposed of properly in an approved sanitary disposal project.
6. GRADING OR EXCAVATION EXCEPTED. No contract or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.

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7. LICENSE NOT TRANSFERABLE. No license authorized by this article may be transferred to another person.

- 2.12 COLLECTION FEES/ UNIT BASED PRICING. The collection and disposal of refuse as provided by this chapter is declared to be a benefit to the property served and therefore, a mandatory fee shall be levied and collected in accordance to the following:

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

- 1a. For each single family dwelling, and each dwelling unit on residential premises, a base fee of \$12.00 per month. This includes all residential premises located in the restricted residence zoning district in the City of Paullina, and other family dwelling units located outside the restricted residence district.
- b. The base fee identified above for the family dwellings and dwelling units shall cover the collection of 1 - 65 gallon garbage cart per week, provided by the City of Paullina, of not more than 75 lbs.
- c. For each commercial, industrial and institutional premises with a blue cart the fee is \$30.00 per month. For commercial, industrial and institutional with a dumpster the fee is \$5 per cubic yard with a \$30 per month minimum.
- d. The City Council may adjust the fee imposed and to be collected, upon a showing by written application filed with the City Clerk, that there are unusual or extraordinary circumstances which would warrant a change in the fee imposed. Furthermore, the Council may by resolution set a fee higher or lower than stated above for extraordinary circumstances.
- e. The City Council may adjust the fee imposed and to be collected, upon a showing by written application filed with the City Clerk, that there are unusual or extraordinary circumstances which would warrant a change in the fee imposed. Furthermore, the Council may by resolution set a fee higher or lower than stated above for extraordinary circumstances.

Adjustments may be made for vacancy when a resident moves to assisted living, a nursing home, or other facility with no intent of returning. No adjustments shall be made for vacancies due to vacations whether summer or winter, or other temporary vacancies.

2. PAYMENT OF BILLS. All fees shall be due and payable under the same terms and conditions provided for payment for electric and water service except that the provisions of subsequent 3 hereof shall be used to enforce collection of delinquent fees.
3. LIEN FOR NON-PAYMENT. Fees remaining unpaid and delinquent for a period of ninety (90) days shall constitute a lien upon the premises served and shall be certified

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by the clerk to the county treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84(3))

Editor's Note: Ordinance 225, approved September 8, 1998, amended Section 2.12.
Ordinance 239, approved on April 16, 2001, amended Section 2.12.
Ordinance 35, approved on October 15, 2012 amended Section 2.12 1a
Ordinance 41, approved on October 5, 2015 amended Section 2.12 1a & 1c
Ordinance 44, approved on April 18, 2016 amended Section 2.12 1c

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 3 - SOLID WASTE DISPOSAL

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

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

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

3.03 OPEN DUMPING PROHIBITED. No person shall cause, allow or permit the disposal of solid wastes upon any place within the jurisdiction of the city owned or occupied by the person unless such place has been designated by the city as a licensed sanitary disposal project, public sanitary disposal project or an approved processing facility.
(Code of Iowa, Sec. 455B. 307)

3.04 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

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- 3.05 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only in accordance with explicit instructions first obtained from the Executive Director of the EPC of the Iowa DNR.
(IAC, 567-102.14(2))
- 3.06 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.
(IAC, 567-102.14(1))
- 3.07 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the Northwest Iowa Area Solid Waste Agency are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.
- 3.08 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.
- 3.09 NEW SITE APPROVAL. Prior to the siting of a proposed new sanitary landfill or infectious waste incinerator within the city limits, a request for approval shall be submitted to the council. The applicant shall submit information to the council to demonstrate compliance with the requirements prescribed by Chapter 455B of the Code of Iowa.
(Code of Iowa, Sec. 455B.305A)
- 3.10 YARD WASTE COMPOSTING AT POINT OF ORIGIN. Nothing contained in this Title, Chapter 1, shall prohibit yard waste from being disposed of or composted on the same premises where it originated.

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 4 - PUBLIC SEWER SYSTEMS

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

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

1. "Sewer System" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this chapter.

(Code of Iowa, Sec. 455B.171 (32))

2. "Sewage" shall mean 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.

(Code of Iowa, Sec. 455B.171 (29))

3. "Public Sewer" means a common sewer which is directly controlled by a public authority.

4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.

5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface and ground water.

6. "Sanitary Sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.

7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.

8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.

(Code of Iowa, Sec. 455B.171 (9))

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9. "Properly Shredded Garbage" means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch to any dimension.
10. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
11. "Building Sewer" is that part of the horizontal piping from the building wall to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.
12. "Natural Outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
13. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
14. "Contributor" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
15. "Sewer Rental" means any and all rates, charges, fees, or rentals levied against and payable by contributors as consideration for the servicing of said contributors by said sewer system.
16. "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent, or if quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
17. "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the drainage system.
18. "Superintendent" means the person assigned to supervise the sanitary sewage collection system and treatment works, or the superintendent's duly authorized assistant, agent, or representative.
19. "Garbage" means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

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20. "B.O.D." (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees C., expressed in parts per million by weight. Normal or base values are two hundred milligrams per liter (200 mg/l).
21. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. It is used to indicate the concentration of free acid and alkali.
22. "Suspended Solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering. Normal or base values are two hundred fifty milligrams per liter (250 mg/l).

Editor's Note: Ordinance 218, approved October 22, 1996, amended Sections 4.02 (20) & 4.02 (22).

- 4.03 DAMAGING SEWER SYSTEM. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.
(Code of Iowa, Chapter 716)
- 4.04 MANHOLES. No person shall open or enter any manhole of the sewer system, except by authority of the superintendent.
(Code of Iowa, Chapter 716)
- 4.05 Reserve for Future Use.
- 4.06 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, the person must obtain a written permit from the superintendent. The following shall apply to all permits:
 1. APPLICATION. The application shall be filed on blanks furnished by the city and contain the following information:
 - a. Legal description of the property.
 - b. Name of property owner.
 - c. Amount and date of any prior assessment for construction of the public sewers.
 - d. Description of materials to be used and manner of construction.
 - e. The line of the building sewer and place of connection.
 - f. Intended use of the sewer.
 - g. Name and address of the person doing the work.
 2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.

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3. REVOCATION. The superintendent at any time may revoke the permit for any violation of this chapter and require that the work be stopped. The owner or plumber may appeal such action to the council.
 4. FEE. Before any permit is issued, the person who makes the application shall pay a fee of twenty-five dollars (\$25.00) to cover the cost of issuing the permit and supervising, regulating and inspecting the work.
- 4.07 COMPULSORY CONNECTION TO PUBLIC SEWER. 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 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 this chapter. Connection to the public sewer is to be completed within thirty (30) days after the date of official notice from the city to do so. The owner shall bear the entire expense of connecting to the proper public sewer when the sanitary sewer is located within two hundred (200) 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.
- (Code of Iowa, Sec. 364.12(3)(f))
(IAC, 1987, 641-17.1(5)(135) and
IAC, 1986, 567-69.3(3)(455B))
1. SEPARATE CONNECTIONS. In no case shall a joint sewer be allowed where the property abuts on a street, alley or easement in which there is a public sewer. Other buildings in adjacent areas which are required to be connected shall be separately and independently connected to the public sewers unless the council specifically permits joint connections by resolution.
 2. 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.
 3. SEWER TAPS, AT "Y" BRANCH. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, the property owner shall, at the owner's own expense, install a "Y" saddle, carefully mortared set into the public sewer at the location specified by the clerk.
 4. WATERCOURSE CROSSINGS. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed and where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the

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pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end and be adequately supported if more than one pipe length is used.

- 4.08 QUALITY OF PIPE AND FOUNDATION. Building sewer pipes shall be of the best quality, free from flaws, splits or breaks. They shall be laid on a smooth bottom with bell holes cut in the bottom of the trench so that the joining of the bell and the spigot shall be watertight, gastight and root proof. All sewer pipes must be laid in such a manner as to prevent rupture or misalignment by settlement or freezing.
- 4.09 GRADE. All four (4) inch building sewers shall be laid to a straight line and at a grade of not less than one-fourth (1/4) inch per foot. A six (6) inch building sewer may be laid at grade of not less than one-eighth (1/8) inch per foot. Any deviation in alignment or grade shall be made only with the written approval of the superintendent. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.
- 4.10 OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be the responsibility of the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- 4.11 INTERCEPTORS. Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, garages, and other facilities, when in the opinion of the superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located so as to be readily and easily accessible for cleaning and inspection.
1. REQUIREMENT. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
 2. MAINTENANCE. All interceptors of grease, oil, sludge and sand shall be maintained by the owner at the owner's expense in continuously efficient operations at all times.
- 4.12 EXCAVATIONS. All excavations for building sewer installations shall be made in accordance with the following:
1. Barricades and Lighting. Adequate barricades and warning lights shall be so placed as to protect the public from hazard.
 2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

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3. Pipe Bed. Immediately prior to installing the pipe, the trench bottom shall be accurately shaped and graded by hand and bell holes shall be excavated so that the pipe will have uniform contact with a longitudinal bearing on undisturbed earth along its entire barrel length. Bell holes shall be excavated by the pipe and shall be of such depth that the pipe bell does not come in contact with the bottom of the bell hole. All sewer pipe shall be laid with the bell end up grade. Where the floor of the trench at the proper grade is of hard or rock material, the floor shall be excavated four (4) inches or more below grade and backfilled with fine gravel or material approved by the superintendent. Where the floor of the trench at the proper grade is of unstable material, the same treatment as described above shall be provided.
 4. Backfill. All sewer pipe shall be provided with adequate bottom and lateral support by thoroughly, carefully and adequately tamping and ramming suitable and proper backfill material beneath, around and to the top of the pipe between the bell holes and sewer joints. All material used for pipe embedment and tamped backfill shall be free of stones, sticks, large clods, lumps of earth, debris, or similar material. When backfill is made in across a roadway ditch or other watercourse, it shall be protected from surface erosion by adequate means. Backfill shall be made with dirt and tamped by hand to a depth of six (6) inches over the pipe. The remainder of the trench shall be backfilled and tamped with gravel or materials approved by the superintendent. All excess dirt will be removed immediately and before the connection is approved by the superintendent.
 5. Restoration of Public Property. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
 6. Completion by the City. Should any excavation in any street or alley be left open or unfinished, for a period of twenty-four (24) hours or should the work be improperly done, the superintendent shall have the right to finish or correct such work and the expense shall be charged to the property owner.
- 4.13 SEPARATE TRENCHES. The building drain and water service pipe shall be at least ten feet apart horizontally, and shall be separated by undisturbed or compacted earth.
- 4.14 EXCEPTION. The building sewer or building drain may be placed in the same trench with the water service pipe provided the following conditions are met:
1. WATER SERVICE PIPE ABOVE SEWER LINE. The bottom of the water service pipe, at all points, shall be at least twelve inches above the top of the sewer line at its highest point.
 2. WATER SERVICE PIPE ON SHELF. The water service pipe shall be placed on a solid shelf excavated at one side of the common trench. Where ground conditions do not permit a shelf, the pipe may be laid on a solidly tamped backfill.

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3. NUMBER OF JOINTS. The number of joints in the water service pipe shall be kept to minimum.
4. PRESSURE PROHIBITED. No part of the building sewer or building drain shall be under pressure.
- 4.15 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
(Code of Iowa, Sec. 364.12)
- 4.16 COMPLETION BY CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the private sewer is installed and connected with the public sewer, the superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
- 4.17 INSPECTION AND APPROVAL. All private sewers and their connections with the public sewers must be inspected and approved by the superintendent before being backfilled. If approval is refused, the plumber or owner must proceed immediately to correct the work so that it will meet with approval.
- 4.18 PROHIBITED DISCHARGE SPECIFIED. No person shall discharge or cause to be discharged any of the following described waters or waste to a public sanitary sewer:
 1. SURFACE WATERS. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
 2. HIGH TEMPERATURE. Any liquid or vapor having a temperature higher than 150 degrees F.
 3. FAT OIL, GREASE. Any water or waste which contains more than one hundred (100) parts per million by weight of fat, oil, or grease.
 4. FLAMMABLE MATERIALS. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 5. GARBAGE. Any garbage that has not been properly shredded.

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6. **SOLID OR VISCOUS SUBSTANCES.** Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city's sewage and treatment system.
7. **SUSPENDED SOLIDS.** Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
8. **CORROSIVE WASTES.** Any water or wastes having corrosive properties paunch capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of pH between 4.5 and 10.0.
9. **SLUGS.** Any wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids and CBOD 5.
10. **NOXIOUS OR MALODOROUS GAS.** Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
11. **TOXIC OR POISONOUS SUBSTANCE.** Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
12. **MATERIALS WHICH REACT WITH WATER OR WASTES.** Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to sewage structures and treatment processes.
13. **SPECIAL AGREEMENTS PERMITTED.** No statement in this section shall be construed as preventing any special agreement, arrangement or contract between the council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions as to treatment, rate and cost as established by the council.
14. **SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interest of the sewer system.

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15. **ABANDONED SEWER LINES.** When a sewer line in a home or business is discontinued or abandoned, the property owner shall dig the line and cap it off so that no fresh water may be discharged in to the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his or her approval.
 16. **STORM WATER OR UNPOLLUTED DRAINAGE.** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent of utilities. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent to a storm sewer, combined sewer or natural outlet.
 17. **SUBSTANCE CLOGS PIPES.** No owner or occupant of any building shall discharge or permit to be discharged into the sanitary sewers any substance which will clog the pipes or joints or interfere unduly with the sewage disposal process.
- 4.19 **PAYMENT FOR COSTS OF PROHIBITED DISCHARGES.** Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any user which discharges any substance otherwise prohibited by this Article from discharge to a public sanitary sewer or any substance discharged to a public sanitary sewer which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel, including, but not limited to, the superintendent thereof, and approved by the Council.
- Editor's Note: Ordinance 218, approved on October 22, 1996, amended Article 14 by adding Section 14.18A, which was changed to 14.19 when updating the Municipal Code.
- 4.20 **SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer system upon the terms and conditions stipulated by resolution of the council.
(Code of Iowa, Sec. 364.4(2&3))
- 4.21 **ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines located upon the private property of any owner which is in violation of any of the requirements of this article, with the exception of the requirements of Subsection 4.18(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

4.22 PRIVATE SEWAGE DISPOSAL LIMITED. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tanks, cesspool, or other facility intended or used for the disposal of sewage.

(Code of Iowa, Sec. 364.13(3)(f))

4.23 SUPERINTENDENT APPOINTED. The superintendent of the utilities shall act as superintendent of the city sewage system and exercise the following powers and duties:

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

1. Operation and Maintenance. The superintendent shall operate and maintain the city sewage system.
2. Inspection and Tests. The superintendent shall conduct necessary inspections and tests to assure compliance with the provisions of this chapter.
3. Records. The superintendent shall maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

4.24 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. Plumber to Make Connections. Any installation of a private sewer and its connection to a public sewer shall be made by a competent plumber with experience in laying drain and sewer pipes.
2. Permit for Connection. Any person desiring to make a connection with the sewer system shall first file with the clerk an application therefore, on blanks furnished by the city, setting forth the location and description of the property to be connected with the sewer system and for what purpose the sewer is to be used.
3. Permit Fee. The person who makes the application shall pay a flat permit fee in the amount of one hundred dollars (\$100.00) flat fee for the property to be served to the clerk to cover the cost of issuing the permit; supervising, regulating, and inspecting the work; and to partially reimburse the city for the costs of collection and treatment facilities made available to the property served.
4. Inspection. 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 underground 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.

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5. Connection Deadline. All approved connection permits shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days from the approval of the permit.
6. Extension of Time. When, in the judgment of the superintendent, a property owner on application has made sufficient showing that due to conditions beyond the property owner's control or peculiar hardship, the period of time set forth for the completion of the connection shall be inequitable or unfair to the property owner, an extension of time within which to comply with the provisions herewith may be granted.
7. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent to meet all requirements of this article.
8. 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.
9. Alignment and Grade. All four (4) inch building sewers shall be laid to a straight line and at a grade of not less than one-fourth (1/4) inch per foot. A six (6) inch building sewer may be laid at grade of not less than one-eighth (1/8) inch per foot. Any deviation in alignment or grade shall be made only with the written approval of the superintendent. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.
10. Pipe Specifications. Building sewer pipes shall be free from flaws, splits, or breaks. Materials shall be as specified and building sewers pipe, from the property line to the public sewer, shall comply with one of the following requirements:
 - A. Clay sewer pipe - A.S.T.M. C 13-50 (standard strength).
 - B. Clay sewer pipe - A.S.T.M. C 200-50T (extra strength).
 - C. Extra heavy cast iron soil pipe.
 - D. Case iron water pipe - A.S.A. A21.11.
 - E. P.V.C. Schedule 40-A.S.T.M. D2665-68.

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11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used and subject to the approval of the superintendent, subject to the following specific requirements. Jointing in vitrified clay pipe, sanitary sewers shall be of the O-ring or plastic jointing known as ASTM C-425 Types I and III, flexible compression joints. Cast iron pipe shall be lead jointed, property swaged tight, or installed with approved gaskets.
12. 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.

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 5 - PRIVATE SEWER SYSTEMS

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

1. "Private Sewage Disposal System" means all equipment and devices necessary for proper conduction, collection, storage, treatment and disposal of sewage from a dwelling or other facility serving the equivalent of fifteen (15) persons or less and including building sewers, septic tanks, absorption fields, leaching or seepage pits, privy vaults and subsurface sand filters.
2. "Reasonably Accessible" means a distance from a property to a sanitary sewer of 200 feet but the council may make a determination that up to 250 feet is practical for a connection to a public sewer system in specific circumstances.

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

(IAC, 567-69.1(3))

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

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

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

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

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

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

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

5.07 DISCHARGE TO NATURAL OUTLETS PROHIBITED. No septic tank or cesspool shall be permitted to discharge to any natural outlet or drain into the open.

(IAC, 567-69.1(3)(b))

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- 5.08 MAINTENANCE OF FACILITIES. The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all time and at no expense to the city.
- 5.09 DISPOSAL OF WASTE. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any place in the city except where may be designated by the council. The rate or charge for receiving such waste shall be determined by resolution of the council.
- 5.10 ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his or her official capacity.
- 5.11 MINIMUM LOT AREA. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen hundred (1500) square feet.

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 6 - SEWER RENTAL

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

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

6.02 RENTAL RATES. Each contributor shall pay a sewer rental for the use of and for the services supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed, except water consumed for irrigation purposes, as follows:

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

<u>Water Used</u>	<u>Sewer Service Charge</u>
First 1,000 gallons or lesser Amount per month	\$10.00 per month (minimum monthly bill)
2,000 – 15,000 gallons	\$5.00 per 1,000 gallons per month
16,000 +	\$2.50 per 1,000 gallons per month

In no case shall the minimum service charge be less than \$10.00 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

(Ordinance 26, adopted June 15, 2009 amended Section 6.02.)

Water used for water irrigation purposes shall not be considered as water used for the sewer rental rate established above, provided that a separate water meter had been installed, such that water passing through there shall not be used for any other purpose than lawn irrigation, and that such meter has been installed in a manner approved by the City Council at the expense of the consumer.

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

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

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

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

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6.05 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the same terms and conditions provided for payment for water service, except that the provision of Section 6.06 shall be used to enforce collection of delinquent sewer charges. Water service may be discontinued for failure to pay sewer rental charge.

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

6.06 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for sanitary sewer service becomes delinquent by more than sixty (60) days:

1. The City may discontinue sanitary sewer service to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then the account holder shall notify the City Clerk in writing of his or her desire to appear within ten (10) days of the date of the notice sent by the City.
2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least ten (10) days prior to certification of the lien to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then the account holder shall notify the City Clerk in writing of his or her desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.

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- 6.07 COMBINED SERVICE ACCOUNT. The City may combine charges for sanitary sewer services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.
- 6.08 LIABILITY. The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided said premises.
- 6.09 USE OF FUNDS. All revenues and moneys derived from the operation of the sewer system shall be paid to and held by the city separate and apart from all other funds of the city, and all of said sums and all other funds and moneys incident to the operation of said system as may be delivered to the city shall be deposited in a separate fund designated the "Sanitary Sewer Fund Account" and said council shall administer said fund in every respect in a manner provided by the Code of Iowa and all other laws pertaining thereto.
- 6.10 ACCOUNTING AND AUDITING. The city shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system.
- 6.11 SPECIAL AGREEMENTS PERMITTED. No statement in this article 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 of character may be accepted subject to special conditions, rate and cost as established by the council.
- 6.12 MAINTENANCE OF REVENUES. The user charge system provided for herein shall generate adequate annual revenues to pay costs of annual operation and maintenance, including replacement costs. Replacement costs include, but are not limited to, debt from retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement of the treatment works, shall be established by ordinance.
- 6.13 REVIEW OF USER CHARGES. The Council will review the user charge system at least every two years or more often as necessary and review user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance, including replacement, and that the system continues to provide for the proportional distribution of operation and maintenance, including replacement costs, among users.

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- 6.14 PRIORITY OF USER CHARGE SYSTEM. If there are any inconsistencies between the user charge system set forth in this Article and the terms or conditions of any agreement or contract between the City and any user, the terms of this Article shall take precedence over the terms or conditions of any agreement or contract. If there are any existing agreements or contracts between the City and any user, the terms or conditions of which are inconsistent with this Article, the requirements of Section 204(b) (1) (A) of the Clean Water Act (CFR 35.2140(h) and the corresponding regulations, said agreement or contract shall be brought into conformity with this Article, said Act and the corresponding regulations pursuant to the terms of the agreement or contract or any modification, extension or renewal thereof as soon as possible.

Editor's Note: Ordinance 218, approved on October 22, 1996, amended Article 6 by adding Sections 6.12, 6.13 and 6.14.

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 3: WATER SERVICES

ARTICLE 7 - WATER SERVICE AND RATES

- 7.01 CONNECTION REQUIRED. The owner of all houses, buildings, or structures used for human occupancy, employment, recreation or other purposes, situated within the City of Paullina 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 water main or service line of the Municipal Waterworks System of the city is hereby required to connect such building, house or other structure to the Municipal Waterworks System. Connection shall be completed thirty (30) days after the date of official notice to do so. The owner shall bear the expense of connecting to the Municipal Waterworks System and maintaining such connecting line as provided in Section 8.03 when the property line of the property on which such building, house or structure is located within two hundred (200) feet of such water main or service main.
- 7.02 APPLICATION FOR SERVICE. Applications for water service to a building, house or other structure shall be filed with the clerk upon a form to be supplied by the city. The application shall state the name of the applicant and the premises to be served. All applications filed after the commencement of the operation of the water system shall be accompanied by a fee of One Hundred Dollars (\$100.00), payable to service the city, for the connection. If no application for water service is filed within the time period required for connection to the Municipal Waterworks System proposed by Section 7.01 above, the city may motion order the connection to be made and bill the owner of said building, house or structure for the fee thereof.
- 7.03 WATER RATES. There shall be and there are hereby established rates and charges for the use of and for the service supplied by the Municipal Waterworks System, based upon the meter readings of the amount of water consumed, except water consumed for irrigation purposes by use of a City approved irrigation meter. The minimum bill and rate established by the rate schedule shall apply to each and every separate individual meter in service at any time during the billing period, including billing periods during which the minimum gallons are not used. Customers with more than one meter shall be billed for each meter per the rate schedule as follows:

Monthly Service Charge	\$14.00
First 10,000 gal @	\$3.00 /1000 gals
Next 50,000 gal @	\$2.43/1000 gals
Next 100,000 gal @	\$2.03/1000 gals
Balance @	\$1.93/1000 gals

Rural customers are charged 120 % of inside city users.

(Editor's Note: Ordinance 32 was adopted by Council on May 16, 2011 and amended the water rates in Section 7.03)

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7.04 IRRIGATION WATER RATES. Subject to the approval of the City Council, separate water meters shall be installed solely for the purpose of irrigation of yards and lawns, and for no other purpose. The rates for water consumed for irrigation purposes as metered through the separate irrigation meter shall be as follows:

Monthly Service Charge	\$5.00
First 10,000 gal @	\$3.00 /1000 gals
Next 50,000 gal @	\$2.43/1000 gals
Next 100,000 gal @	\$2.03/1000 gals
Balance @	\$1.93/1000 gals

(Editor's Note: Ordinance 32 was adopted by Council on May 16, 2011 and amended the water rates in Section 7.04)

7.05 BILLING AND PAYMENT. Bills for the rates and charges as herein established shall be sent monthly. All bills shall be payable on the twentieth day of the month following the reading of the meters and shall be paid at the office of the clerk. If any bills for the service of the water system shall remain unpaid twenty (20) days following the rendition of the bill therefore, the water supply for the lot, parcel of land, or premises affected shall be cut off and shall not be turned on again except on payment in full of the delinquent charges therefore and an additional reconnection fee.

7.06 LIABILITY FOR PAYMENT AND DEPOSITS. The owner of the premises served and the occupant thereof and the user of the water service shall be jointly and severally liable for the water service provided said premises.

The requirement of an initial deposit shall be determined by application of the following criteria:

- a. No initial service deposit shall be required of an applicant:
 1. Who has previously established a credit history with the utility;
 2. Whose twelve most recent bills from the utility were timely paid (including one automatic forgiveness for late payment);
 3. Whose new service is subject to the same rate classification as that for which the payment history was established.

Reasonable proof of an equivalent recent payment history for similar service from another utility may be accepted by the utility.

- b. An initial service deposit not exceeding the highest two monthly billings for service during the previous twelve-month period shall be required of an applicant for service who does not meet the credit criteria of subparagraph "a" above.

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A new or additional deposit may be required of a current customer whose initial deposit has been refunded or is found to be inadequate. The new or additional deposit shall ensure a total deposit equal to the two highest monthly billings for service during the previous twelve-month period and shall apply to customers who make two late payments in a twelve-month period (not including one automatic forgiveness of late payment).

Such deposit shall be applied to any bill for water service delinquent more than thirty (30) days. Upon the termination of the use of the water service by that tenant for that building, any balance of such deposit shall be returned to the applicant without interest.

- 7.07 BILLS RENDERED. It is hereby made the duty of the clerk to render bills for water service and all other charges in connection therewith and to collect all moneys due therefrom.
- 7.08 UTILITY FUND. All revenues and moneys derived from the operation of the water system shall be paid to and held by the city clerk separate and apart from all other funds by the city and all of said sums and all other funds and moneys incident to the operation of said system as may be delivered to the city clerk shall be deposited in a separate fund designated the "Utility Fund", and said clerk shall administer said fund in every respect in a manner provided by the Code of Iowa and all other laws pertaining thereto.
- 7.09 ACCOUNTING AND AUDIT. The city clerk shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the water system and at regular annual intervals, the council shall cause to be made an audit by an independent audit concern of the books to show the receipts and disbursements of the water system.

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 3: WATER SERVICE

ARTICLE 8 - SERVICE RULES AND REGULATIONS

- 8.01 SERVICE APPLICATION. Property owner or his or her agent, hereinafter called customer, must make written application for water service at the clerk's office of the municipality, and said application including service received thereunder is unassignable by the customer.
- 8.02 TAPPING MAINS. All taps and connections to the mains of the municipality shall be made by and/or under the direction and supervision of superintendent of utilities of this article.
- 8.03 INSTALLATION OF SERVICE LINE. The municipality shall install and maintain at its expense that portion of the service from the main to the lot or easement line, including the necessary tap, fittings, and shut-off valve; and the customer shall install and maintain at its expense that portion of the service from said lot or easement line to the customer's premises, including a stop and waste cock at the end of the customer's service shall be five (5) feet. The municipality shall determine the size and kind of service to be installed.
- 8.04 SERVICE DISCONTINUED. Application may be cancelled and/or water service discontinued by the municipality for any violation of any rule, regulation, or condition of service, and especially for any of the following reasons:
1. Misrepresentation. Misrepresentation in the application as to the property or fixtures to be supplied or used to be made of water.
 2. Failure to Report Use. Failure to report to the municipality addition to the property or fixtures to the supplies or additional use to be made of water.
 3. Sale of Water. Resale or giving away of water.
 4. Misuse. Waste or misuse of water due to improper or imperfect service pipes, and/or fixtures, or failure to keep same in suitable state of repair.
 5. Tampering. Tampering with meter, meter seal, service or valves, or permitting such tampering by others.
 6. Cross Connection. Connection, cross-connection or permitting same of any separate water supply to premises which receive water from the municipality.
 7. Delinquency. Non-payment of bills.

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- 8.05 REQUESTED DISCONTINUANCE OF SERVICE. Any customer desiring to discontinue the water service to his or her premises for any reason must give notice of discontinuance at the business office of the waterworks system, otherwise, the customer shall remain liable for all water used and the service rendered by the municipality until said notice is received by the municipality.
- 8.06 BILLING PROCEDURES. Bills and notices relating to the conduct of the business of the municipality will be mailed to the customer at the address listed on the application, unless a change of address has been filed in writing at the business office of the municipality; and the municipality shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from non-payment of a bill or from any performance required in said notice.
- 8.07 PAYMENT FOR SERVICE. Payment for water service shall be as follows:
1. Due and Payable. Bills for water service are due and payable at the business office of the municipality or to any designated agent on their date of issue. The past due date shall be the twentieth (20th) day after the date of issue. Bills will be dated and mailed on the first of each month.
 2. Delinquency. All bills not paid on or before the past due date shall be termed delinquent, and the municipality shall serve on the customer a written final notice of said delinquency. If a delinquent bill is not paid within twelve (12) days after date of such final notice, the water supply to the customer may be discontinued without further notice.
 3. Meters Read. Meters will be read monthly between the 15th and the 20th of each month.
- 8.08 RECONNECT CHARGE. When the water supply to a customer has been discontinued for non-payment of delinquent bills or requested discontinuance of service for any reason, a charge of Twenty-Five Dollars (\$25.00) will be made for reconnection of water service. The reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the municipality have been paid. There will be no reconnect charge for discontinuance of service due to normal maintenance and/or repair of customer service line during normal business hours.
- 8.09 DEPOSITS. The requirements of an initial deposit shall be determined by application of the following criteria:
- a. No initial deposit shall be required of an applicant:
 1. Who has previously established a credit history with the utility;

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2. Whose twelve most recent bills from the utility were timely paid (including one automatic forgiveness of late payment);
3. Whose new service is subject to the same rate classification as that for which the payment history was established.

Reasonable proof of an equivalent recent payment history for similar service from another utility may be accepted by the utility.

- b. An initial service deposit not exceeding the highest two monthly billings for service during the previous twelve-month period shall be required of an applicant for service who does not meet the credit criteria of subparagraph "a" above.

A new or additional deposit may be required of a current customer whose initial deposit has been refunded or is found to be inadequate. The new or additional deposit shall ensure a total deposit equal to the two highest monthly billings for service during the previous twelve-month period and shall apply to customers who make two late payments in a twelve-month period (not including one automatic forgiveness of late payment).

Such deposits shall be applied to any bill for water service delinquent more than thirty (30) days. Upon termination of the use of the water service by that tenant for that building, any balance of such deposit shall be returned to the applicant without interest.

- 8.10 METERS. All meters shall be installed, maintained and renewed by and at the expense of the municipality, and the municipality reserves the right to determine the size and type of meter used.
- 8.11 METER TESTS. Upon the written request of any customer, the meter serving said customer shall be tested by the municipality. Such test will be made without charge to the customer if the meter has not been tested within twelve (12) months preceding the requested test; otherwise a charge of two (2) dollars will be made and then only if the test indicates meter accuracy within the limits of two percent (2%).
- 8.12 ESTIMATED READINGS. Where a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purpose will be based upon an average of the prior six (6) months consumption, and the conditions of normal water usage expected during the period in which the meter failed to register.
- 8.13 CONSTRUCTION USE. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being Ten Dollars (\$10.00); and the amount to be determined by the municipality depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter. Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench

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and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant or water service may be discontinued without notice.

- 8.14 SERVICE INTERRUPTIONS. The municipality shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur, will endeavor to re-establish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.
- 8.15 CITY LIABILITY LIMITED. The municipality shall, in any event, be held responsible for claim made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruptions of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruptions of service which, in the opinion of the municipality, may be deemed necessary.
- 8.16 BOILERS AND PRESSURE VESSELS. Customers having boilers and/or pressure vessels receiving a supply of water from the municipality must have a check valve on the water supply line and a vacuum valve on the steam line to prevent collapse in the case the water supply from the municipality is discontinued or interrupted for any reason, with or without notice.
- 8.17 RIGHT OF ENTRY. The premises receiving a supply of water and all service lines, meter and fixtures, including any and all fixtures within the said premises shall, at all reasonable hours, be subject to inspection by duly authorized employees of the municipality.
- 8.18 SPECIAL TERMS OF USE. Special terms and conditions may be made where water is used by the municipality or community for public purposes such as fire extinguishment, public parks, etc.
- 8.19 PERMIT REQUIRED. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit from the city clerk.
- 8.20 BOND REQUIRED. Before a permit may be issued, the person applying for such permit shall have executed unto the municipality and deposited with the clerk a corporate surety in the minimum sum of One Thousand Dollars (\$1,000.00 conditioned that the person will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances pertaining to plumbing, waterworks or appurtenances. This bond shall state that the person will indemnify and save harmless the municipality and the owner of the premises against all damage, costs, expense, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his or her part in connection with plumbing, waterworks or appurtenances as prescribed in this chapter. Such bond shall remain in force and must be executed for a period of a minimum of

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one year except that on such expiration, it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

- 8.21 CONSTRUCTION STANDARDS. Service lines and appurtenances shall be constructed in accordance with the state plumbing code.
- 8.22 CLASSES OF PERMITS AND FEES. There shall be two (2) classes of permit applications: one for residential service, and the second for commercial and industrial service. In either case, the owner or owner's agent shall make application on a special form furnished by the said city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of Five Dollars (\$5.00) for a residential service connection and Fifteen Dollars (\$15.00) for a commercial or industrial service connection shall be paid to the city at the time the permit application is filed.
- 8.23 CUSTOMER'S LIABILITY. If any loss or damage to the property of the municipality or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, member of his or her household, his or her agent or employee, the cost of the necessary repairs or replacements shall be paid by the customer to the municipality and any liability otherwise resulting shall be that of the customer.
- 8.24 USE OF WATER RESTRICTED. Water furnished by the municipality may be used for domestic consumption by the customer, members of his or her household, and employees only. The customer shall not sell or give the water to any other person.
- 8.25 EASEMENTS. Each customer shall grant or convey, or shall cause to be granted or conveyed to the municipality a permanent easement and right-of-way across any property owned or controlled by the customer wherever said easement or right-of-way is necessary for the municipal water facilities and lines, so as to be able to furnish service to the customer.
- 8.26 LINE EXTENSIONS. The municipality will construct extensions to its water lines to points within its service area, but the municipality shall not be required to make such installations unless the customer pays to the municipality the entire cost of the installation and subject to the following provisions:
1. Contract. All line extensions shall be evidenced by a contract signed by the municipality, and the person advancing funds for said extension, but each contract shall be null and void unless approved by the Farmers Home Administration (RECD) and other governing bodies.
 2. Calculation of Refunds. If refund of the advance is to be made, the following method shall apply: twenty percent (20%) of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five (5) years, provided that the aggregate payments do not exceed the total amount deposited.

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3. Refund Not Available. No refund shall be made from any revenue received from any lines leading up to or beyond the particular line extension covered by contract.
 4. Rights of City. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the municipality and such extension shall be the property of the municipality and no other person shall have any right, title or interest therein.
- 8.27 SERVICE REFUSED. The municipality may refuse service to persons, not presently customers, when, in the opinion of the municipality, the capacity of the facilities will not permit such service.
- 8.28 RULE CHANGES. These rules may be changed or amended.
- 8.29 COMPLAINTS. Complaints may be made to the operator of the system and may be appealed to the city council within ten (10) days.

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CHAPTER 3: WATER SERVICE

ARTICLE 9 - WATER CONSERVATION PLAN

- 9.01 WATER CONSERVATION. The City Council is hereby authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In making the determinations to implement water conservation set out herein, the City Council shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability at the well head; supply capacity, rate of usage and projected daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakage, stoppages and leaks; and safety and such other data pertinent to the past, current and projected water demands.
- 9.02 DECLARATION OF WATER ALERT. When moderate, but limited, supplies of water are available, the City Council shall by resolution call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever means available. The resolution declaring such water alert shall be published for on publication in a newspaper of general circulation in the City.
- 9.03 DECLARATION OF WATER EMERGENCY. When very limited supplies of water are available, the City Council shall by resolution order curtailment of less essential uses of water. The resolution declaring such water emergency shall be published for one publication in a newspaper of general circulation in the City and upon publication shall require a compliance with this section by all persons using water from the water system until by resolution of the council the emergency shall be declared to be terminated. The following uses of potable process water from the municipal water system during such a water conservation emergency are hereby prohibited:
1. Watering or irrigation of lawns and all other outside vegetation except greenhouse or nursery stock.
 2. The washing of cars, trucks, trailers and other mobile vehicles or equipment except at commercial establishments which provide that service.
 3. The cleaning of outdoor surfaces including buildings, sidewalks, driveways, and porches.
 4. The nonessential cleaning of commercial and industrial equipments, machinery, and interior spaces.
 5. The filling of private swimming pools, wading pools, reflecting pools, ornamental fountains or any other structure making similar use of water.

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6. Permitting the loss of water through defective plumbing or fixtures, except where the customer can provide proof of prompt repair of the defect.
7. The serving of drinking water in restaurants, cafeterias, or other food establishments unless requested by the establishment's customer.
8. The use of water in any manner for livestock and animals of all kinds.

9.04 EXCEPTIONS BY APPEAL TO COUNCIL. The provisions of this Ordinance shall not apply to any governmental activity, institution, business, farm, or industry, upon a proper showing, to be necessary for the public health, safety and welfare, or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, farm, business or industry aggrieved may appeal to the City Council, and upon a proper showing, the City Council shall have authority to grant exceptions accordingly.

9.05 PENALTY. Any person who shall violate any of the provisions of this Ordinance or any of the conservation regulations shall constitute a municipal infraction as defined in these Ordinances at Title I, Section 1.06 and shall be subject to suspension from water service; and if so, shall pay a reconnection fee in accordance with the Ordinances of the City of Paullina.

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TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

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TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 1 - PUBLIC PEACE

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

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

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

1.04 UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

(Code of Iowa, Sec. 723.2)

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

1. **FIGHTING**. Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.
(Code of Iowa, Sec. 723.4(1))
2. **NOISE**. Makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.
(Code of Iowa, Sec. 723.4(2))
3. **ABUSIVE LANGUAGE**. Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
(Code of Iowa, Sec. 723.4(3))
4. **DISRUPT LAWFUL ASSEMBLY**. Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
(Code of Iowa, Sec. 723.4(4))
5. **FALSE REPORTS**. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
6. **DISRESPECT OF FLAG**. Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.
(Code of Iowa, Sec. 723.4(6))
7. **OBSTRUCT USE OF STREETS**. Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
(Code of Iowa, Sec. 723.4(7))
8. **FUNERAL OR MEMORIAL SERVICE**. A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:

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- a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service, or participating in the funeral procession.
- b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

- 1.08 TEMPORARY CIVIL DISORDER. The following shall apply:

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

1. DECLARATION. The mayor may declare a state of civil disorder within the city or its parts if he or she has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.
2. TEMPORARY RESTRICTIONS. The mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the city is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.

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- c. Order the cessation of the sale or other distribution of explosives or flammable.
 - d. Order the closing of all or some public parks, public streets or other public places during specified hours.
 - e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.
3. **TERMINATION.** Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the mayor's declaration of civil disorder, or upon his or her declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the mayor may be extended by successive resolutions of the council for additional time periods. The period of any one extension shall not exceed five (5) days.
- 1.08 **NOISE GENERALLY.** It is a violation to disturb the peace with excessive, loud or unusual noise by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking device or noisemaker.
- 1.09 **TIRE NOISE.** It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud or unusual noise to come from the tires of said vehicle.
- 1.10 **LOUD, UNNECESSARY OR UNUSUAL NOISE:** Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person or normal sensitivities residing in the area.
- 1.11 **HARASSMENT.**
- 1.a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:
 - 1. Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
(Code of Iowa, Sec. 708.7(1))
 - 2. Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

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(Code of Iowa, Sec. 708.7(2))

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

(Code of Iowa, Sec. 708.7(3))

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

(Code of Iowa, Sec. 708.7(4))

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

(Code of Iowa, Sec. 708.7(1.b))

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 2 - PUBLIC MORALS

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

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

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TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 3 - MINORS

- 3.01 PURPOSE. To establish and enforce a curfew for minors.
- 3.02 DEFINITION. The term “minor” means in this section, any unmarried person below the age of eighteen (18) years.
- 3.03 TIME LIMITS. 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 1:00 a.m. and 5:00 a.m. of the following day.
- 3.04 EXCEPTIONS. The restriction provided by 3.03 shall not apply to any minor who is accompanied by a guardian or parent, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.
- 3.05 RESPONSIBILITY OF ADULTS. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, place of business, or amusement or other public places within the curfew hours set by subsection 3.03 except as otherwise provided in subsection 3.04.
- 3.06 ENFORCEMENT. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsection 3.03 except as otherwise provided in subsection 3.04. Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.
- 3.07 PENALTY. Whenever a police officer has a reasonable cause to believe that a person had violated any provisions of this chapter, such officer may do any of the following:
- A. IMMEDIATE ARREST. Immediately arrest such person and take him before a local magistrate. Grounds for arrest are that the person refuses to sign the citation without qualification, persists in violating the chapter, refuses to provide proper identification or identify the person's self or constitutes an immediate threat to the person's own safety or the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody, either in a shelter-care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on a 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.

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

- B. **ISSUE CITATION.** For a minor's violation of any of the provisions of this chapter, the minor shall be guilty of a simple misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed \$100.00. As an alternative, the court may order the minor to perform community service if the minor presents an acceptable plan of community service pre-arranged with a willing public or non-profit private agency or if the court can otherwise arrange such a plan.
- C. **CIVIL PENALTY.** Admitted violations by the minor of the chapter may result in the minor being charged with a simple notice of a fine. The penalty shall be \$10.00, providing such penalty is paid within 72 hours of the time of violation. Said penalty is payable at the office of the city clerk.

1.08 **RESPONSIBLE ADULTS VIOLATION.** Any responsible adult, as defined in this chapter, who knowingly allows a minor to violate any of the provisions of this section shall be guilty of a simple misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$100.00.

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 4 - PUBLIC HEALTH AND SAFETY

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

4.02 DISCHARGING WEAPONS. It shall be unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or firearms of any kind within the city limits except by authorization of the council, or except by a peace officer in the line of duty.

4.03 FIREWORKS. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks without a permit from the city.

1. DEFINITION. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrocketes, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "*fireworks*" does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

(Code of Iowa, Sec. 727.2)

2. REGULATIONS. 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 the council 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 |

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

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and sold for medicinal or fumigation purposes.

- 4.04 FALSE ALARMS. It is unlawful for a person to:
1. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
 2. A person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the act did not occur.
(Code of Iowa 718.6(1))
 3. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance.
(Code of Iowa 718.6(2))
- 4.05 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or across any street, highway, alley, sidewalk or public place.
- 4.06 SPITTING. It shall be unlawful for a person to spit, including phlegm, within any food establishment, restaurant, hotel, motor inn, cocktail lounge, tavern, public building, or place of business, or within any park or playground, or spit onto any sidewalk, street or onto a building or structure within the city, or any public place.
- 4.07 SALE OF TAINTED FOOD. It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.
- 4.08 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or structure, under his or their control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, ice box or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.
(Iowa Code, Sec. 727.3)

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

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

4.10 URINATION AND DEFECATION. It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, public place or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto public or private land.

4.11 DISTRIBUTING DANGEROUS SUBSTANCES. Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, Sec. 727.1)

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TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 5 - PUBLIC PROPERTY

- 5.01 PURPOSE. The purpose of this article is to define and prohibit offenses against public property and provide for their abatement.
- 5.02 DEFACING PUBLIC GROUNDS. It shall be unlawful for a person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.
(Code of Iowa, Sec. 364.1&364.12(2))
- 5.03 PUBLIC BUILDINGS. It shall be unlawful to willfully write, make marks, or draw characters on the walls or any other part of any church, college, academy, schoolhouse, courthouse, or other public building, or on any furniture, apparatus, or fixture therein; or to willfully injure or deface the same, or any wall or fence enclosing the same.
- 5.04 DAMAGE TO PUBLIC OR UTILITY PROPERTY. It shall be unlawful for a person to maliciously injure, remove, or destroy any railway or apparatus belonging thereto; or any bridge or railroad; or place, or cause to be placed, any obstruction on any railway, or on any bridge or railroad; or willfully obstruct or injure any public road or highway; or maliciously cut, burn or in any way break down, injure, or destroy any post or pole used in connection with any system of electric transmission or distribution, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break, or injure the wires of any apparatus belonging thereto; or to willfully tap, cut, injure, break, disconnect, connect, make connection with or destroy any of the wires, mains, pipes, conduits, meters, or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant, or water plant; or to aid or abet any other person in so doing.
(Code of Iowa, Sec. 716.1)
- 5.05 DEFACING PROCLAMATIONS OR NOTICES. It shall be unlawful for a person to intentionally deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or this state, or any proclamation, advertisement or notification, set up at any place within the city by authority of the law or by order of any court, during the time for which the same is to remain set up.
(Code of Iowa, Sec. 716.1)
- 5.06 INJURY TO FIRE APPARATUS. It shall be unlawful for a person to willfully destroy or injure any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires.
(Code of Iowa, Sec. 716.1)

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

- 5.07 DESTROYING PARK EQUIPMENT. It shall be unlawful for a person to destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.
(Code of Iowa, Sec. 716.1)
- 5.08 INJURY TO CEMETERY PROPERTY. It shall be unlawful for a person to willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery or other fences, railing or other work for the protection or ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or to willfully and maliciously throw or leave any rubbish, refuse, garbage, waste, litter or foreign substance within the limits of said cemetery, or to drive at an unusual and forbidden speed over avenues or roads in said cemetery, or to drive outside of said avenues and roads, and over the grass or graves of said cemetery.
- 5.09 INJURING NEW PAVEMENT. It shall be unlawful for a person to destroy or injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready to use.
- 5.10 CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of property is criminal mischief when done intentionally by one who has no right to so act.
- 5.10 OBSTRUCTING DRAINAGE. It shall be unlawful to divert, obstruct, impede, or fill up, without legal authority any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.
- 5.11 SIDEWALKS AND RIGHT-OF-WAY. It shall be unlawful for a person to damage public right-of-way or sidewalks, dig into or in any manner break any sidewalk, curb, pavement, street, alley or public ground without replacing the same in as good condition as found.
- 5.12 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.

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 6 - PRIVATE PROPERTY

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

1. **ENTER PROPERTY WITHOUT PERMISSION.** Enter upon or in private property without legal justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove there from, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7)

2. **VACATE PROPERTY WHEN REQUESTED.** Enter or remain upon or in private property without legal justification after being notified or requested to abstain from entering or to remove or vacate there from by the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(Code of Iowa, Sec. 716.7)

3. **INTERFERE WITH LAWFUL USE OF PROPERTY.** Enter upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, Sec. 716.7)

4. **USE OF PROPERTY WITHOUT PERMISSION.** Be upon or in private property and use, remove there from, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7)

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

(Code of Iowa, Sec. 716.7(2))

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

- 6.02 DAMAGE TO PROPERTY (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)
- 6.03 TELEPHONE OR COMMUNICATION WIRE TAP. Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, commits a serious misdemeanor; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.
(Code of Iowa, Sec. 727.8)
- 6.04 THEFT. It is unlawful for any person to commit theft as defined in Section 714.1 of the Code of Iowa.

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 7 - EXECUTION OF PROCESS

- 7.01 RESISTING ARREST. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.
(Code of Iowa, Sec. 804.12)
- 7.02 REFUSING TO ASSIST AN OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.
(Code of Iowa, Sec. 719.2)
- 7.03 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any policeman, fireman, officer, or city official in the discharge of his or her duty.
- 7.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees.
(Code of Iowa, Sec. 718.4)

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 2: NUISANCES

ARTICLE 8 - GENERAL PROVISIONS

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

- d. Blocking public and private ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landings, places or burying grounds.

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

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

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

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

- f. Storing of inflammable junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper by dealers in such articles within the fire limits of the city, unless it be in a building of fireproof construction.
(Code of Iowa, Sec. 657.2(10))
- g. Air pollution. The emission of dense smoke, noxious fumes or fly ash.
(Code of Iowa, Sec. 657.2(11))
- h. Obstruction of drainage. Any article or substance placed upon any street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the same.
- i. Dutch elm disease. Trees infected with dutch elm disease.
(Code of Iowa, Sec. 657.2(13))
- j. Airport air space. Any object or structure hereafter erected within one thousand (1000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
(Code of Iowa, Sec. 657.2(9))
- k. House of ill fame. Houses of ill fame, kept for the purpose prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
(Code of Iowa, Sec. 657.2(6))
- l. Obstruction of view. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- m. Trash piles. Accumulation of rubbish or trash tending to harbor vermin or rodents and creating the hazard of fire.
- n. Septic effluent. Effluent from a septic tank or drainage field running or ponding on the ground in the open, including in ditches.
- o. Ponding water. An accumulation of water until it becomes stagnant.
- p. Weeds. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.

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

- q. Impeding Passage of Navigable River. The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

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

- r. Farm Animals & fowl. Except in areas zoned Agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies.
- s. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free standing material makes with the horizontal plane without slipping, sliding or collapse of the material.

This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.

- t. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
 - u. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans, or containers.
 - v. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.
2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.12(1))

8.02 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.

8.03 OTHER CONDITIONS REGULATED

The following actions are required and may also be abated in the manner provided in this chapter:

- 1. REMOVAL OF DISEASED TREES. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

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

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2. REMOVAL OF STRUCTURES. The removal, repair or dismantling of a dangerous building or structure.
(Code of Iowa, Sec. 364.12(3c))
3. NUMBERING OF BUILDINGS. The numbering of buildings.
(Code of Iowa, Sec. 364.12(3d))
4. DRAINAGE CONNECTIONS. The connection to public drainage systems from abutting property when necessary for public health or safety and protection of property.
(Code of Iowa, Sec. 364.12(3e))
5. SANITARY FACILITIES. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
(Code of Iowa, Sec. 364.12(3f))
6. DESTRUCTION OF WEEDS. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
(Code of Iowa, Sec. 364.12(3g))
 - A. All weeds or other growth must be destroyed on or before the 15th day of the following months: May, June, July, August, September, and October. In the event of failure to comply, the City shall enter the property and destroy said weeds or other growth at the property owner's expense. The City will assess the actual cost of labor and material expended plus 10% of this amount for administrative costs against the property cleared of weeds or other hazardous growth which constitutes a health, safety, or fire hazard.

(Editor's Note: Ordinance 33 approved June 6, 2012 amended Section 8.03 (6))

7. MAINTENANCE. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets and ten (10) feet clearance above sidewalks from trees, except as provided in Section 9.03(1) in this Article

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 2: NUISANCES

ARTICLE 9 - ABATEMENT PROCEDURE

9.01 NUISANCE ABATEMENT. Whenever the mayor or other authorized municipal officer finds that a nuisance exists or a condition needs to be corrected, he or she shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

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

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

1. DESCRIPTION OF NUISANCE. A description of what constitutes the nuisance or other condition.
2. LOCATION. The location of the nuisance or condition.
3. ACTS NECESSARY TO ABATE. A statement of act or acts necessary to abate the nuisance or condition.
4. REASONABLE TIME. A reasonable time within which to complete the abatement.
5. ASSESSMENT AT CITY COSTS. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

9.03 METHOD OF SERVICE. The notice may be served by ordinance, certified mail, or personal service to the property owner as shown by the records of the County Auditor.

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

9.04 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the council at a time and place fixed by the council. The findings of the council shall be conclusive, and if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

9.05 ABATEMENT IN EMERGENCY. If it is determined that an emergency or danger exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which may be required under this chapter without prior notice. The council shall assess the costs after notice to the property owner and hearing on the costs incurred by the city to abate the nuisance or condition.

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

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- 9.06 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the clerk who shall pay such expenses on behalf of the city.
(Code of Iowa, Sec. 364.12(3h))
- 9.07 COSTS OF ABATEMENT. The following shall apply to abatement procedure:
1. COLLECTION. The clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the clerk shall certify the costs to the county treasurer and it shall then be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
 2. INSTALLMENT PAYMENT. If the amount expended to abate the nuisance or condition exceeds \$500, the city shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.
(Code of Iowa, Sec. 364.13)
 3. The City may collect all associated abatement expenses in a Court of Small Claims.
 4. The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.
 5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.
- 9.08 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate shall be in violation of the Code of Ordinances, and subject to the standard penalty contained in Title 1, Chapter 1, Article 1 of this Code of Ordinances and may also be punished under the City's municipal infraction ordinance, as codified in this Code of Ordinances. A separate offense shall be deemed committed on each day during or on which violation occurs or continues.

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 10 - GENERAL PROVISIONS

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

1. "ANIMAL" shall mean all living creatures not human.
2. "AT LARGE" shall mean any animal in a motor vehicle open to the extent escape is permitted, or an animal off the premises of its owner, and in either case, not under the control of a competent person, either by leash, cord, chain, wire, rope, cage or other physical restraint of a length not to exceed six feet and of sufficient strength to restrain the animal.
3. "OWNER" shall mean any person owning, keeping, sheltering, or harboring an animal.

(Code of Iowa, Sec. 351.2)

4. "Dangerous Animal": shall mean
 - (a) any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals, and having known tendencies as a species to do so;
 - (b) any animals declared to be dangerous by the city council or its designee; or
 - (c) the following animals which shall be deemed to be dangerous animals per se:
 - a. wolves and coyotes;
 - b. badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
 - c. bears;
 - d. all apes (including chimpanzees), baboons and macaques;
 - e. monkeys, except the squirrel monkey;
 - f. elephants;
 - g. wild boars;
 - h. black widow spiders and scorpions;
 - i. snakes which are naturally venomous or poisonous;
 - j. all cats, except domestic cats (Carnivora of the family Felidae including, but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, et al.);
 - k. raccoons, opossums and skunks; and
 - l. alligators and crocodiles.
 - m. Pit Bull Terriers, including the following:
 1. The Bull Terrier breed of dog;
 2. The Staffordshire Bull Terrier breed;

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3. The American Staffordshire Terrier breed;
4. The American Pit Bull Terrier breed;
5. Dogs of mixed breed or other breeds which are known as pit bulls, pit bulldogs or pit bull terriers;
6. Any dog which has the appearance and characteristics of being predominantly of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or a combination of any of these breeds.

(Ordinance 9, Adopted by Council on July 18, 2005 added new subsection "M" Pit Bull Terriers.)

5. "Dog" shall mean and include members of the canine species, male or female, whether neutered or not.
6. "Kennel" shall mean any premises on which four (4) or more dogs or four (4) or more cats, six (6) months old or older are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.
7. "Person" shall mean any individual, association, partnership, or corporation and includes any officer, employee or agency thereof.
8. "Licensed Dog" shall mean any dog tagged in accordance with state law or regulations for rabies vaccination.
9. "Vicious Animal" shall mean any animal, except for a dangerous animal per se as defined above, while running at large that has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities in present or past conduct either by:
 - (a) biting any human being to the extent that blood is drawn from the person; or bite marks, puncture wounds, or bruises, temporarily or permanent, are left on the person; or the person's clothing or other property is damaged.
 - (b) having a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
 - (c) being uncontrollable by the owner at the time of the bite to prevent the occurrence; or
 - (d) attacking or biting any domestic animal or fowl on one separate occasion.

(Ordinance 9, Adopted by Council on July 18, 2005 amended paragraphs (a), (b), & (d).)

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- (e) having been found to possess such a propensity by the city council after hearing.
- (f) Recognizing that even well controlled and restrained dogs may momentarily escape from their owner's control and cause injury, an animal may be deemed "not vicious" if:
 - a. the injuries caused are to one person only and are minor in the eyes of the victim, as well as that of a reasonable person, and
 - b. a second incident does not occur within one calendar year from the date of the first occurrence.

(Ordinance 29, Adopted by Council on April 19, 2010 added subparagraph (f).)

10.02 CRUELTY TO ANIMALS. No person shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food or water, or who fails to provide a dog or cat with adequate shelter, or who shall torture, torment, deprive or necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently.

(Code of Iowa, Sec. 717.2 & 717.3)

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

(Code of Iowa, Sec. 717.3)

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

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

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

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- 10.07 ANNOYANCE OR DISTURBANCE. It shall be unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.
- 10.08 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the city a vicious animal so defined herein, except as provided in Section 10.09 of this Article.
- 10.09 VICIOUS ANIMAL EXCEPTIONS. The prohibition contained in Section 10.08 of this Article shall not apply to the keeping of vicious animals in the following circumstances:
1. Animals under control of a law enforcement or military agency.
 2. The keeping of guard dogs. However, guard dogs must be kept within a structure of fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 10.10 of this Article. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog", "Vicious Dog", or words of similar import, and the owner of such premises shall inform the Paullina Police Department that a guard dog is on duty at such premises.
- 10.10 IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.
1. Any peace officer or designee, hereinafter officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the city council. The person, firm or corporation owning, keeping, sheltering or harboring the animal in question shall be given not less than 72 hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to remove it from the city or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.
 2. If, after hearing, the city council determines that an animal is vicious, the council shall order the person, firm or corporation owning, sheltering, harboring or keeping the animal to remove it from the city, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the officer shall cause the animal to be destroyed.

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3. Failure to comply with an order of the council issued pursuant hereto shall constitute a misdemeanor offense.
4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the officer may immediately destroy it or unless its ownership is not ascertainable, in which case the animal control officer may destroy it after three (3) days impoundment.
5. Any animal which is alleged to be vicious and which is under impoundment or quarantine shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the city.

10.11 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the peace officer or other designated official, hereinafter officer, or the Paullina Police Department, be destroyed if it cannot be confined or captured. The City of Paullina shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

Editor's Note: Ordinance 219, passed and approved on November 4, 1996 amended Article 10, by adding Section 10.09A, which has been changed to 10.10 when updating the Code Book.

2. Upon the signed written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City of Paullina, the officer shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the officer shall order the person named in the complaint to safely remove such animal from the City of Paullina, and permanently place the animal with an organization or group allowed under Section 10.13 of this Article to possess dangerous animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person in which case the officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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3. The order to remove a dangerous animal issued by the officer may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three (3) days after receipt of the order contained in the notice to remove dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the officer.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After such hearing, the city council may affirm or reverse the order of the officer. Such determination shall be continued in a written decision and shall be filed with the city clerk within three (3) days after the hearing, or any continued session thereof.
5. If the city council affirms the action of the officer, the council shall order in its written decision that the individual or entity owning, sheltering, harboring or keeping such dangerous animal, remove such animal from the city, permanently place such animal with an organization or group allowed under Section 10.13 of this Article to possess dangerous animals or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the officer is not appealed and is not complied with within three (3) days or the order of the city council after appeal is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the city shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under section 10.13 of this Article to possess dangerous animals, or destroy such animal in a humane manner. Failure to comply with an order of the city issued pursuant hereto shall constitute a misdemeanor offense, punishable pursuant to Title I, Section 1.06 of this Code.

10.12 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a custodian, temporary or otherwise, for such animal, or keep such animal for any other purpose or in any other capacity within the City of Paullina except as provided in Section 10.13 of this Article.

While the following animals are not declared by this ordinance to be dangerous per se, (a) constricting snakes exceeding six feet in length, and (b) lizards exceeding two feet in length, the owners of such animals shall, within two hours of knowledge of the possibility of such an animal being "at large" within the community, so notify the Police Department of the City of Paullina.

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- 10.13 DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 10.12 of this Article shall not apply to the keeping of dangerous animals in the following circumstances:
1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.
 2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus carnival exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintenance any and all required federal or state licenses.
 3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
 4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Conservation Commission.
 5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission, pursuant to Chapters 109 and 109A of the Iowa Code.
- 10.14 ESCAPE FROM CONFINEMENT. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.
- 10.15 DUTY OF RESTRAINT. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor
- 10.16 INTERFERENCE WITH OFFICIAL ACTS. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the city, so as to hinder, delay, or prevent his or her executing his or her duties in relation to the matters and things contained in this chapter.
- 10.17 SANITARY CONDITIONS OF CONFINEMENT. It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house of person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four hours or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and

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fly-tight containers pending disposal and shall be disposed of at least once weekly. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food consumption in such a manner so that it will not become food for rodents and other vermin.

10.18 ABANDONMENT. It is unlawful for any owner or other person to abandon, turn loose or leave any animal within the corporate limits of the city or so that the animal may find its way into the corporate limits of the city, or to abandon or leave any animal upon or in any premises unattended for a period in excess of three (3) days.

10.19 SUMMONS ISSUED. Penalties for violation shall be as follows:

1. \$10.00 if there has been no other violation of this ordinance in the one-year period prior to the date of this violation.
2. \$20.00 if there has been one other violation of this ordinance in the one-year period prior to the date of this violation.
3. A simple misdemeanor if there have been two other violations of this ordinance in the one-year period prior to the date of this violation.

10.20 DISPOSITION OF UNLICENSED DOGS. It shall be lawful for any person, and the duty of all peace officers within their jurisdiction, to kill any dog for which a license is required when such dog is not wearing a collar with license tag attached.
(Code of Iowa, Sec. 351.26)

10.21 DISPOSAL OF OTHER ANIMALS. If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities, such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

10.22 IMPOUNDMENT. Whenever impoundment or quarantine of an animal is required under this chapter, such impoundment or quarantine shall be with an organization or group as defined in Section 10.13 which may also specifically include any clinic, shelter, pound, or office however designated which is operated by or under the direction of any licensed veterinarian.

Any licensed, unlicensed, or unvaccinated dog found at large shall be seized and impounded, or the owner may be served a summons to appear before a proper court to answer charges made thereunder. Any person found violating the provisions of this section shall be liable for any fines, cost of securing and impounding any such animal including cost of feed and keep, the actual cost of transporting and boarding, the costs of keeping the animal's vaccinations current, and any other penalties prescribed in this code. Upon payment of the beforementioned, the owner may claim any impounded animal.

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

1. OTHER PREMISES. To pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. CAUSE ANNOYANCE. To cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking or otherwise; or by running after or chasing persons, bicycles, automobiles or other vehicles.
3. CAUSE DAMAGE. To cause any damage or defilement to the public or private property.
4. MOLEST PERSONS. To molest or harm any person on public or private property.
5. MOLEST ANIMALS. To molest or kill wildlife, birds or domestic animals on public or private property.
6. ACCUMULATION OF ANIMAL WASTE. The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners.

10.24 DOGS HABITUALLY AT LARGE. It shall be unlawful for any person to keep within the City any dog for which the owner has been fined three times within a twelve (12) month period under Title III, Chapter 3, Article 10.

10.25 REMOVAL OF WASTE. Any person who shall permit a pet animal to be on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste.

The provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

10.26 POISONED MEAT. No person shall knowingly expose any poisoned meat or other poisoned substances on public or private property where the same may be taken by any human being or domestic animal.

10.27 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

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- 10.28 DESTRUCTION IN LIEU OF IMPOUNDMENT. Notwithstanding any of the other provisions of this chapter, any peace officer of the City has the lawful authority to kill any animal, when such animal is caught in the act of maiming or killing any domestic animal or fowl or when such animal is attacking or attempting to bite a person without provocation.
- 10.29 DEAD ANIMALS. The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.
- 10.30 ANIMALS IN MOTOR VEHICLES; RESCUE. No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal. The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section.
- (1) peace officer
 - (2) fire department personnel
- The person rescuing the animal shall notify the mayor or city clerk and animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.
- 10.31 NUMBER OF DOMESTIC ANIMALS. The total number of domestic animals older than three months shall not exceed five (5) per residence or place of business (excluding bona fide pet stores, educational institutes, circus, carnival or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of twelve (12) weeks of age.
- 10.32 FEMALES IN HEAT. The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage/kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding. Furthermore, any female animal in estrus shall be deemed at large at any time except:
- A. When housed in a building which is completely enclosed;
 - B. When housed in a veterinary hospital or boarding kennel licensed or registered with the State;
 - C. When on the premises of the owner, provided the area in which such animal is located is completely enclosed by a fence or other structure having a height of at least sixty (60) inches; or
 - D. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.
- 10.33 ACTIONS OF CATS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a cat to allow or permit such cat to perform the following:

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1. Pass upon the premises of another thereby causing damage to, or interference with the premises, or to harass or annoy residents or owners of the property.
2. Run at large.
3. Any cat that is repeatedly found at-large, or if an dog has violated offenses within this Chapter repeatedly. Repeatedly shall mean three times.

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CHAPTER 4: EMERGENCY AMBULANCE SERVICE

ARTICLE 11 - GENERAL PROVISIONS

- 11.01 PURPOSE. The purpose of this chapter is to provide for emergency ambulance service to preserve and protect the health, safety and welfare of the general public.
- 11.02 AMBULANCE SERVICE ESTABLISHED. There is hereby established an ambulance service owned and operated by the City of Paullina, Iowa.
- 11.03 ORGANIZATION. The service shall consist of the president and such other officers and personnel as may be authorized by the council.
- 11.04 MEMBERSHIP QUALIFICATIONS. In no case shall any person be recruited, selected or appointed as a member of the department unless such person:
1. Is certified E.M.T., a certified First Responder, an E.M.T. trainee, a First Responder trainee, except those individuals who are utilized as drivers only and have a current Cardiopulmonary Resuscitation (CPR) Certification. First Responders shall be monitored and supervised by a certified E.M.T.
 2. Age. Is at least eighteen (18) years of age.
 3. Driver's License. Has a current Iowa chauffeur's license.
 4. Alcohol and Drugs. Is not a drug addict or a drunkard.
 5. Character. Is of good moral character as determined by a thorough investigation.
 6. Education. Is a high school graduate with a diploma or possesses an equivalency acceptable by the State Department of Public Instruction.
 7. Health. Prior to appointment, and each four (4) years thereafter, has been examined by a physician to determine if free of physical, emotional or mental condition which might adversely affect the performance of duties.
- 11.05 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.
- 11.06 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the president.

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11.07 COMPENSATION. Members of the department shall receive such compensation as shall be determined by resolution of the council.

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

11.08 ELECTION OF OFFICERS. The department shall elect a president and such other officers as their constitution and bylaws may provide, but the election of president shall be subject to approval by the council. In case of absence of the president, the officer next in rank shall be in charge and have and exercise all the powers of president.

11.09 POWERS AND DUTIES. The ambulance service officers shall have the power and authority to conduct and supervise the operation of the ambulance service. The power and authority of the ambulance service officers shall include:

(Code of Iowa, Sec. 392.1)

1. Personnel. The selection of personnel to provide the service voluntarily, and providing an accurate list of such persons, revised at the end of each calendar quarter.
 2. Training. Designating personnel, with council approval, to attend schools and courses concerned with ambulance service and all reasonably related subjects.
 3. Purchase or Equipment. Recommending to the council the purchase of such equipment as the board deems necessary for the operation of the service.
 4. Maintenance of Equipment. Maintaining the vehicles and equipment.
 5. Other. Performing all other acts which are reasonably necessary to the operation of the ambulance service and the maintenance of the equipment.
 6. Annual Report. Submitting to the mayor and council a comprehensive report of the operation of the service and the status of equipment, including a complete equipment inventory, in July of each year.
- 11.10 EMPLOYMENT STATUS. Members of the ambulance service board and personnel providing ambulance service shall be considered to be employees of the city while in the performance of all duties and services reasonably connected with the operation of the ambulance service, for the purpose of the application of Workmen's Compensation statutes and for the purpose of the application of liability insurance coverage.
- 11.11 WORKMEN'S COMPENSATION AND LIABILITY INSURANCE. The city shall purchase sufficient insurance to cover the members of the ambulance service board and all personnel providing ambulance service under the Workmen's Compensation statutes of this state and shall purchase sufficient insurance to protect the city against loss from damages or public liability, resulting from the operation of the ambulance service. The amount of such insurance shall be determined by the council.

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- 11.12 PROVIDING SERVICE OUTSIDE THE CORPORATE LIMITS. The ambulance service herein established is authorized to respond to calls outside the corporate limits of the city within the same geographical limits as the Paullina Fire Department. The ambulance service is authorized to transport patients to such locations as may be necessary in each individual circumstance. The ambulance service board shall establish policies, subject to council approval, for response to calls outside the corporate limits, and for the routine transfer of patients.
- 11.13 FEES ESTABLISHED. The fee for ambulance service and reasonably related emergency services furnished within or without the city shall be established by resolution of the council.
- 11.14 PAYMENT OF FEES. All ambulance service fees, and fees and charges for reasonably related emergency service, shall be due and payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service, and shall be paid to the clerk. Actions for collection of fees and charges shall be brought in the name of the city, after authorization of commencement of action by the council, in the same manner as other actions at law.

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CHAPTER 5: BUILDING MAINTENANCE ORDINANCE - NUISANCE PROVISIONS

ARTICLE 12 - BUILDING MAINTENANCE ORDINANCE

- 12.01 TITLE. This ordinance may be referred to as the "Property Maintenance Code" and is herein referred to as "This Code."
- 12.02 PURPOSE. The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing penalties for violations and providing for property repair, demotion, or vacation of premises which do not comply with this Code.
- 12.03 INTERPRETATION. The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa.
- 12.04 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply, the higher standard shall prevail.
- 12.05 SEVERABILITY. If a section, provision, or part of this Code is adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this code as a whole or any section, provision, or part hereof not adjudged invalid or unconstitutional.
- 12.06 DEFINITIONS. Words used in this Code shall have the same meaning as that defined by the City of Paullina Code of Ordinances unless otherwise defined by this Code and the Code of Iowa.
1. Abandoned Building. Any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has commonly accepted Housing Code Standards or commonly accepted Building Code Standards violations.
 2. Deterioration. A state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.

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3. Enforcement Officer. The City Mayor or Mayor's appointee.
4. Exposed to Public View. Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.
5. Exterior. Yards and other open outdoor spaces on premises, and the external surfaces of any structure.
6. Infestation. The presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in the threat of spreading to adjoining premises, or are exposed to public view.
7. Junk. Any discarded or salvaged material or fixture; obsolete or inoperable machinery or parts thereof; or scrap metal.
8. Nuisance. Physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property and as defined in the Code of Iowa and the City Code of the City of Paullina.
9. Owner. Any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
10. Premises. A lot, plot, or parcel of land together with the structures thereon.
11. Public Authority. Any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning, or building regulations, or other activities concerning property in the City.
12. Refuse. Any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings; leaves; woody vegetative trimmings, and other plant wastes which have not been property composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.
13. Responsible Party. Any person having possession, charge, care or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation anyone or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor,

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trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

12.07 MAINTENANCE OF PREMISES. Each and every premise shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the owner or responsible party to keep the premises free of all said conditions and to promptly remove and abate the same which include but are not limited to the following declared nuisances:

1. Weeds or grasses allowed to grow to a height greater than twelve (12) inches on the average, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County Weed Commissioner. This provision shall not apply to prairies, wetlands, or similar areas of naturalized perennial vegetation which are certified by an Enforcement Officer to not constitute a nuisance.
2. Accumulation of refuse to the prejudice of others.
3. Any structure which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any building that is defined as abandoned or a public nuisance by Chapter, 657A, Code of Iowa, 1999 or the City Code of Paullina.
4. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations or solid waste provisions of the City Code of Paullina.
5. Any nuisance as defined herein or described as such to Chapter 657 of the Code of Iowa, or City Code of the City of Paullina.
6. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alternation or modification which substantially concentrates or increases the flow of water onto an adjoining premises.
7. Conditions which are conducive to the harborage or breeding of vermin.
8. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
9. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to: safety of buildings, major parts thereof, such as limb, which may be dead or broken or otherwise pose a threat to safety of buildings on adjoining premises; any vegetation located on private property which

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overhangs and is less than 15 feet above the traveled portion of any public street, or less than seven feet vertically, or which protrudes into any public sidewalk.

12.08 BUILDING MAINTENANCE. Every building shall be maintained to be weather and water tight and free from excessive peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; other defects in the exterior finish which admits rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars and crawl spaces shall be free of standing water and hazards. All wood, including floorboard, subfloors, exterior, floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

12.09 VIOLATIONS - ENFORCEMENT. The creation or maintenance of a violation of this ordinance is prohibited and shall constitute a Municipal Infraction as provided in the City Code of Paullina. Each day that a violation is permitted to continue constitutes a separate offense.

All inspections, enforcement actions, and hearings on violations, unless expressly stated to be contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officer is hereby authorized to abate such violations in accordance with the Municipal Infraction provisions of the City Code of Paullina and/or with the Procedures of Title III Chapter 2 Article 9 of the Code of Ordinances of the City of Paullina, Nuisance Abatement Procedure, and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a violation, is being maintained, or upon the person or persons causing or maintaining the violation.

Editor's Note: Ordinance 233, approved August 2, 1999. Ordinance 233 created a new Chapter 5, Building Maintenance Ordinances - Nuisance Provisions; Article 12, Building Maintenance Ordinance.

TITLE IV - TRAFFIC AND STREETS

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TITLE IV - TRAFFIC AND STREETS

CHAPTER 1: TRAFFIC CODE

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 TITLE. This chapter may be known and cited as the "Paullina Traffic Code".
- 1.02 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:
1. "PARK" OR "PARKING" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
 2. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
 3. "STOP" shall mean when required, the complete cessation of movement.
 4. "STOP" OR "STOPPING" shall mean, when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
 5. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets:
 - A. Main Street from the north line of Commerce Street to the south line of Groesbeck Street.
 - B. Broadway Street from the east line of Mickley Street to the west line of Cannon Street.
 6. "RESIDENCE DISTRICT" shall mean the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1(63))

TITLE IV - TRAFFIC AND STREETS

7. "CONTROLLED ACCESS FACILITY" shall mean there are hereby fixed and established controlled access facilities within the City of Paullina, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project NO. FN-10-2-(5)--21-71. On the Primary Road System extension improvement, Project No. FN-10-2-(5)--21-71, Primary Road No. 10, within the City of Paullina, described as follows:

On Grand Avenue from Willow Street east to the east corporate line, regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-10-2-(5)--21-71, on file in the office of the clerk.

8. "PEACE OFFICER" shall mean every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(Code of Iowa, Section 321.1(45))

9. "SCHOOL DISTRICT" shall mean the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

10. "SUBURBAN DISTRICT" shall mean all other parts of the city not included in the business, school or residence districts.

(Code of Iowa, Section 321.1)

11. "TRAFFIC CONTROL DEVICE" shall mean all signs, signals, markings and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning or guiding traffic.

(Code of Iowa, Section 321.1)

12. "VEHICLE" shall mean any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley but does not include:

(a) Any device moved exclusively by human power.

(b) Any device used exclusively upon stationary rails or tracks.

- 1.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the Paullina Police Department.

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- 1.04 TRAFFIC ACCIDENTS. The following shall apply to traffic accidents:
1. REPORT. The driver of a vehicle involved in an accident within the limits of this city shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the city for the confidential use of the peace officers and shall be subject to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.271 & 321.272)
 2. INVESTIGATION. The Paullina Police Department shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.
 3. STUDIES. Whenever the accidents at any particular location become numerous, the Paullina Police Department shall conduct studies of such accidents and propose remedial measures.
- 1.05 FILES MAINTAINED. The Paullina Police Department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three year period. Such reports shall be filed alphabetically under the name of the driver concerned.
- 1.06 ANNUAL SAFETY REPORTS. The Paullina Police Department shall prepare annually a traffic report which shall be filed with the mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.
- 1.07 HABITUAL TRAFFIC VIOLATORS. The Paullina Police Department shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefore, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law.
(Code of Iowa, Sec. 321.201 & 321.215)
- 1.08 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the fire department when at the scene of a fire, or emergency or assisting law enforcement at the location of a traffic accident or when assisting peace officers, 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.

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1.09 PEACE OFFICERS' AUTHORITY. Any peace officer is authorized to stop any vehicle to require exhibition of the driver's operator or chauffeur license, 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, 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.

(Code of Iowa, Sec. 321.492)

1.10 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.

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TITLE IV - TRAFFIC AND STREETS

CHAPTER 1: TRAFFIC CODE

ARTICLE 2 - REGULATIONS AND VIOLATIONS

2.01 VIOLATION OF STATE REGULATIONS. Any person who shall willfully fail or refuse to comply with any lawful order of a peace officer or direction of a fire department officer during a fire, or who shall fail to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this chapter. These sections of the Code of Iowa are adopted by reference:

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
13. Section 321.180 – Instruction permits.
14. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
15. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
16. Section 321.193 – Restricted licenses.
17. Section 321.194 – Special minor’s licenses.
18. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor’ License.
19. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
20. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
21. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
22. Section 321.218 - Operating without valid driver's license or when disqualified.
23. Section 321.219 – Permitting unauthorized minor to drive.
24. Section 321.220 – Permitting unauthorized person to drive.
25. Section 321.221 – Employing unlicensed chauffeur.
26. Section 321.222 – Renting motor vehicle to another.
27. Section 321.223 – License inspected.

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28. Section 321.224 – Record kept.
29. Section 321.232 – Radar jamming devices; penalty.
30. Section 321.234A – All-terrain vehicles.
31. Section 321.235A – Electric personal assistive mobility devices.
32. Section 321.247 – Golf cart operation on City streets.
33. Section 321.256 – Obedience to official traffic-control devices.
34. Section 321.257 – Official traffic control signal.
35. Section 321.259 – Unauthorized signs, signals or markings.
36. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
37. Section 321.262 – Damage to vehicle.
38. Section 321.263 – Information and aid.
39. Section 321.264 – Striking unattended vehicle.
40. Section 321.265 – Striking fixtures upon a highway.
41. Section 321.275 – Operation of motorcycles and motorized bicycles.
42. Section 321.276 - Use of Electronic Communication Devices While Driving – Text Messaging.
43. Section 321.278 – Drag racing prohibited.
44. Section 321.284 – Open containers in motor vehicles – drivers.
45. Section 321.284A – Open containers in motor vehicles – passengers.
46. Section 321.288 – Control of vehicle; reduced speed.
47. Section 321.295 – Limitation on bridge or elevated structures.
48. Section 321.297 – Driving on right-hand side of roadways; exceptions.
49. Section 321.298 – Meeting and turning to right.
50. Section 321.299 – Overtaking a vehicle.
51. Section 321.302 – Overtaking and otherwise.
52. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
53. Section 321.304 – Prohibited passing.
54. Section 321.306 – Roadways laned for traffic.
55. Section 321.307 – Following too closely.
56. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
57. Section 321.309 – Towing; convoys; drawbars.
58. Section 321.310 – Towing four-wheel trailers.
59. Section 321.311 – Turning at intersections.
60. Section 321.312 – Turning on curve or crest of grade.
61. Section 321.313 – Starting parked vehicle.
62. Section 321.314 – When signal required.
63. Section 321.315 – Signal continuous.
64. Section 321.316 – Stopping.
65. Section 321.317 – Signals by hand and arm or signal device.
66. Section 321.318 – Method of giving hand and arm signals.
67. Section 321.319 – Entering intersections from different highways.
68. Section 321.320 – Left turns; yielding.
69. Section 321.321 – Entering through highways.
70. Section 321.322 – Vehicles entering stop or yield intersection.

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71. Section 321.323 – Moving vehicle backward on highway.
72. Section 321.323A – Approaching certain stationary vehicles.
73. Section 321.324 – Operation on approach of emergency vehicles.
74. Section 321.324A – Funeral processions.
75. Section 321.325 – Pedestrians subject to signals.
76. Section 321.327 – Yield to pedestrians in crosswalks.
77. Section 321.328 – Pedestrian failing to use crosswalk.
78. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
79. Section 321.330 – Use of crosswalks.
80. Section 321.331 – Pedestrians soliciting rides.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal of train.
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 321.358 – Stopping, standing, or parking where prohibited.
91. Section 321.359 – Moving other vehicle.
92. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).
93. Section 321.362 – Unattended motor vehicle. (Parking without stopping engine and setting brake).
94. Section 321.363 – Obstruction to driver's view.
95. Section 321.364 – Preventing contamination of food by hazardous material.
96. Section 321.365 – Coasting prohibited.
97. Section 321.366 – Acts prohibited on fully controlled-access facilities.
98. Section 321.367 – Following fire apparatus.
99. Section 321.368 – Crossing fire hose.
100. Section 321.369 – Putting debris on highway.
101. Section 321.370 – Removing injurious material.
102. Section 321.371 – Clearing up wrecks.
103. Section 321.372 – School buses.
104. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
105. Section 321.381A – Operation of low-speed vehicles.
106. Section 321.382 – Upgrade pulls; minimum speed.
107. Section 321.383 – Exceptions; slow vehicles identified.
108. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
109. Section 321.385 – Head lamps on motor vehicles.
110. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
111. Section 321.387 – Rear lamps.
112. Section 321.388 – Illuminating plates. Improper registration plate lamp.

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113. Section 321.389 – Reflector requirement. (Improper rear reflector)
114. Section 321.390 – Reflector requirements.
115. Section 321.392 – Clearance and identification lights.
116. Section 321.393 – Color and mounting.
117. Section 321.394 – Lamp or flag on projecting load.
118. Section 321.395 – Lamps on parked vehicles.
119. Section 321.398 – Lamps on other vehicles and equipment.
120. Section 321.402 – Spot lamps.
121. Section 321.403 – Auxiliary driving lamps.
122. Section 321.404 – Signal lamps and signal devices.
123. Section 321.404A – Light-restricting devices prohibited.
124. Section 321.405 – Self-illumination.
125. Section 321.406 – Cowl lamps.
126. Section 321.408 – Back-up lamps.
127. Section 321.409 – Mandatory lighting equipment.
128. Section 321.415 – Required usage of lighting devices.
129. Section 321.417 – Single-beam road-lighting equipment.
130. Section 321.418 – Alternate road-lighting equipment.
131. Section 321.419 – Number of driving lamps required or permitted.
132. Section 321.420 – Number of lamps lighted.
133. Section 321.421 – Special restrictions on lamps.
134. Section 321.422 – Red light in front.
135. Section 321.423 – Flashing lights.
136. Section 321.430 – Brake, hitch and control requirements.
137. Section 321.431 – Performance ability.
138. Section 321.432 – Horns and warning devices.
139. Section 321.433 – Sirens, whistles and bells prohibited.
140. Section 321.434 – Bicycle sirens or whistles.
141. Section 321.436 – Mufflers, prevention of noise.
142. Section 321.437 – Mirrors.
143. Section 321.438 – Windshields and windows.
144. Section 321.439 – Windshield wipers.
145. Section 321.440 – Restrictions as to tire equipment.
146. Section 321.441 – Metal tires prohibited.
147. Section 321.442 – Projections on wheels.
148. Section 321.444 – Safety glass.
149. Section 321.445 – Safety belts and safety harnesses; use required.
150. Section 321.446 – Child restraint devices.
151. Section 321.449 – Motor carrier safety regulations.
152. Section 321.450 – Hazardous materials transportation.
153. Section 321.454 – Width of vehicles.
154. Section 321.455 – Projecting loads on passenger vehicles.
155. Section 321.456 – Height of vehicles; permits.
156. Section 321.457 – Maximum length.
157. Section 321.458 – Loading beyond front.

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158. Section 321.459 – Excessive weight – dual axels (each over 2000 lb. over).
159. Section 321.460 – Spilling loads on highways.
160. Section 321.461 – Trailers and towed vehicles.
161. Section 321.462 – Drawbars and safety chains.
162. Section 321.463 – Maximum gross weight.
163. Section 321.465 – Weighing vehicles and removal of excess.
164. Section 321.466 – Increased loading capacity; re-registration.
165. Section 321.467 – Retractable Axels.
166. Section 321.471 – Local Authorities May Restrict.
167. Section 321.473 – Limiting Trucks – Rubbish Vehicles.
- 2.02 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of the city unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or him or herself to any vehicle upon a roadway.
- 2.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.
- 2.04 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor punishable as provided in the Code of Iowa.
(Code of Iowa, Sec. 321.482)
- 2.05 MILLING. It shall be unlawful to drive or operate a motor vehicle, either singly or with others in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.
- 2.06 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.
- 2.07 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cutout, bypass or similar device.
(Code of Iowa, Sec. 321.436)

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2.08 PLAY STREETS. The council may declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

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

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

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

1. IDENTIFIED. A funeral or other procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the Paullina Police Department.
2. MANNER OF DRIVING. Each driver in a funeral or other procession shall drive as near to the right hand of the roadway as practical and safe.
3. INTERRUPTING PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by traffic control signals or peace officers.

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

1. SIGNALS. The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than three hundred (300) feet, nor more than five hundred (500) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.

(Code of Iowa, Sec. 321.372(1))

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2. **LIGHTS ON.** The driver of a school bus shall, while carrying passengers, have its headlights turned on.
(Code of Iowa, Sec. 321.372(1))
 3. **DISCHARGING PUPILS.** All pupils shall be received and discharged from the right front entrance of every school bus, and if the pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.
(Code of Iowa, Sec. 321.372(2))
 4. **PASSING PROHIBITED.** The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.
(Code of Iowa, Sec. 321.372(3))
 5. **STOP WHEN MEETING.** The driver of any vehicle when meeting a school bus on which the amber warning signal lights are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution.
(Code of Iowa, Sec. 321.372(3))
 6. **MULTI-LANE ROADS.** The driver of a vehicle upon a highway or street providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction even though said school bus has stopped.
(Code of Iowa, Sec. 321.372(4))
- 2.12 **PUBLIC CONSUMPTION OR INTOXICATION.** It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).
(Code of Iowa, Sec. 123.46)

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2.13 OPEN CONTAINERS IN A MOTOR VEHICLE.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

As used in this section "passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

This Section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, motor sports recreation vehicle, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.

- 2.14 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Title II Chapter 2 of this Code of Ordinances.

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

(Code of Iowa, Sec. 321.277A)

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

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2.16 JAKEBRAKING. It shall be unlawful for any person in any part of the City of Paullina to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any semi-tractor, commonly referred to as jakebraking. The City shall cause notices to be posted, or signs erected indicating prohibition.

2.17 UNATTENDED VEHICLE.

1. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key; or to permit it to stand unattended upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.
2. No “reefer”, or refrigeration unit of a semi or semi-trailer, or a vehicle with refrigeration shall be left unattended and running during daylight hours, nor shall any reefer or refrigeration unit on a vehicle be left running from the hours of sunset to sunrise.

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ARTICLE 3 - SPEED REGULATIONS

- 3.01 GENERAL. Every driver of a motor vehicle on a street shall drive the same, at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other conditions then existing, and no person shall drive a vehicle on any street at a speed greater than will permit the 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)
- 3.02 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.
(Code of Iowa, Sec. 321.294)
- 3.03 BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(1))
- 3.04 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(2))
- 3.05 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.236(5))
- 3.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Uniform Traffic Devices Manual, the council, upon the basis of an engineering and traffic investigation, finds that the general speed limits set out above are greater or less than is reasonable or safe under the conditions found to exist at the particular intersections or parts of the city street system and therefore declares the maximum speed limits to be as set out in section 3.08 at the places named.
(Code of Iowa, Sec. 321.290)
- 3.07 EMERGENCY VEHICLES. The speed limitations set forth in this article do not apply to authorized emergency vehicles when responding to emergency calls and the drivers thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.
(Code of Iowa, Sec. 321.231)

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

1. Grand Avenue, also known as Highway 10, both inside and outside the city limits of Paullina, Iowa. The speed limits shall be as follows:
 - a. 45 miles per hour from State Reference 436 to 300 feet west of Willow Street.
 - b. 35 miles per hour from 300 feet west of Willow Street to 475 feet east of Maple Street.
 - c. 45 miles per hour from 475 feet east of Maple Street to State Reference 486, which is 100 feet east of the Golf Course entrance.
 - d. 50 miles per hour from State Reference 486 to State Reference 511, which is 100 feet east of the Park entrance.

The State References are as they appear in the records of the Iowa Highway Department of Transportation as official markings for Highway 10.

2. MAIN STREET. The speed limit on Main Street between Grand Avenue and Swanson Street shall be 15 miles per hour.
3. SWANSON STREET. The speed limit on Swanson Street between Main Street and County Blacktop Road L48 shall be 15 miles per hour.

3.09 EXCESSIVE ACCELERATION.

1. No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public street or publicly held property within the city limits of Paullina, Iowa. Prima facie evidence of such unnecessary exhibition of speed shall be unreasonable squealing or screeching sound emitted by the tires or the throwing of sand and gravel by the tires or to cause the tires of the vehicle to leave skid marks on the pavement or to cause the front wheel of a motorcycle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid collision.
2. SCHEDULED VIOLATION. A violation of this section is a scheduled violation, whether charged as a municipal infraction or as a criminal violation, and is subject to a minimum civil penalty or fine respectively of Twenty-five Dollars (\$25.00).

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ARTICLE 4 - TURNING REGULATIONS

- 4.01 AUTHORITY TO MARK. The Paullina Police Department may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.
(Code of Iowa, Sec. 321.311 & 321.255)
- 4.02 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.
- 4.03 SIGNAL REQUIREMENTS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning when the speed limit is forty-five (45) miles per hour or less. The required signals may be given either by means of the hand and arm as provided in the Code of Iowa or by a mechanical or electrical directional signal device or light of a type approved by the department and conforming to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.315)
- 4.04 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection; provided however, that "U" turns are prohibited at intersections within the business district, at intersections where there are automatic traffic signals and on the following streets:
(Code of Iowa, Sec. 321.255 & 321.236(9))
1. Main Street and Grand Avenue
 2. Main Street and Logan Street
- 4.05 CROSSING CENTERLINE ILLEGALLY. Left turns across the centerline of any street for the purpose of parking on the left side of the street or for any other purpose are hereby prohibited, except for left turns at intersections, alleys and driveways in accordance with Section 321.297 of the Code of Iowa. Backing any motor vehicle across the centerline from a parked position shall also be prohibited.

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ARTICLE 5 - PARKING REGULATIONS

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

5.04 ANGLE PARKING LOCATIONS. Angle parking shall be permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. Main Street, from Groesbeck Street to Railroad Street.
2. Broadway Street, from Rutledge Street to Mickley Street.
3. The North 90 feet on the east and west sides of Main between Greene Street and Groesbeck Street.

5.05 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the municipal code, any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Paullina Police Department to erect or cause to be erected appropriate signs giving notice, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal. When the

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signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

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

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

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

1. Maple Street, from Grand Avenue to the south corporate line.
2. Broadway Street, from Maple Street to Mickley Street.
3. Rutledge Street, on the east side from Groesbeck Street to Green Street between the hours of 7:30 a.m. and 4:30 p.m. on days when school is in session for more than a two (2) hour period.

(Editor's Note: Ordinance 12, adopted September 19, 2005)

4. Groesbeck Street, on the north side, from Main Street to Maple Street.
5. Railroad Street, on the south side, from Main Street to Rutledge Street.
6. Rutledge Street, on the west side, from the northeast corner of lot 13, Block 7 of the Original Town of Paullina (alley between Broadway Street and Groesbeck Street) to Greene Street.
7. Broadway Street, on the south side from Maple Street to Wood Street.
8. Willow Street, on the east side from roadway Street to Groesbeck Street between the hours of 8:00 a.m. and 6:00 p.m.
9. North side of Groesbeck Street from Rutledge Street to within 96.5 Feet of the center of Willow Street between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, from August 20 each year until June 1 each year.
10. North side of Groesbeck Street from the center of Willow Street measured 90 Feet East, except that parking shall be allowed at any and all times by anyone for the purpose of residing in, using, servicing, repairing, visiting, delivering, or otherwise attending to the apartment building located adjacent to the site.
11. East side of Cannon Street between Groesbeck Street and Broadway Street.

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12. The south side of Commerce Street from Clark Street west to the north-south alley in the middle of Block 17. Said area of No Parking being along the south side of the City Park area.
13. The east side of Clark Street from the north side of Commerce Street, 320 feet north. Said area of No Parking being along the east side of the City Park area.
14. The West side of South Cannon Street from Broadway Street to Groesbeck Street from 8:00 a.m. to 4:00 p.m., Monday through Friday, from August 1St to June 1St each year.
15. The South side of Swanson Street from North Main Street to North Mickley Street.

Editors Note: Ordinance 237 was approved on June 5, 2000 adding Subsections 5.06(12) & 5.06(13).
Ordinance 39 was approved on May 7, 2015 adding Subsection 5.06(14) & 5.06(15).

5.07 HANDICAPPED PARKING. No person, except drivers of vehicles that are identified as for handicapped persons, shall park in areas marked as reserved for handicapped parking.

1. Public Property. The council, by resolution, shall set aside at least six-tenths of one percent of the metered on or off-street parking spaces as handicapped parking spaces.
2. Private Property. A person may set aside handicapped parking spaces on the person's property provided each parking space is clearly and prominently designated as a handicapped parking space.
3. Unlawful Use. The use of a handicapped parking space by a motor vehicle not displaying a handicapped identification device, or by a motor vehicle displaying such a device but not being used by a handicapped person, as operator or passenger is a misdemeanor.

4. Scheduled Violation. A violation of this section is a scheduled violation and subject to a fine of Two Hundred Dollars (\$200.00).

(Code of Iowa, Sec. 805.8(2))

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

1. Crosswalk. On a crosswalk at an intersection.
(Code of Iowa, Sec. 321.236(1) & Sec. 321.236(1))
2. Center parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236(1))

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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, 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. 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))
10. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358(10))
11. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358(11))
12. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the chief of police may cause curbing to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358(13))
13. 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 theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxi-cab stand, bus depot, church, or other building where large assemblages of people are being

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held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

14. Alleys. No such 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. 236(1))

15. Controlled Access Facility. Parking restrictions on controlled access facilities shall be specified in Title VIII, Chapter 1, Article 2 of this code.

16. Parking and Terrace. Upon the parking or terrace, designated as that area between the curb line and the sidewalk line, where curbing has been installed.

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

17. 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))

18. IN MORE THAN ONE SPACE. In any designated parking place so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such spaces.

19. 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))

- 5.09 SNOW REMOVAL. No owner or operator of any motor vehicle shall park or permit to be parked a motor vehicle on any street from November 1st through March 31st of the following year between the hours of 2:00 a.m. and 6:00 a.m., except in the business district which is defined in section 5.10 as amended, between the hours of 3:00 a.m. to 5:00 a.m. of each day, and except that this provision shall not apply to motor vehicles parked immediately adjacent upon the place of employment of the operator thereof, and he or she is then engaged in his or her employment, and except attended disabled vehicles and emergency vehicles.

(Editor's Note: Council adopted Ordinance 1 on April 7, 2003, amending section 5.09 Snow Removal.

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- 5.10 BUSINESS DISTRICT/SNOW REMOVAL/STREET CLEANING. Business district shall be defined as Main Street from Commerce Street to Groesbeck Street, and Broadway Street from Rutledge Street to Mickley Street. No owner or operator of any motor vehicle shall park or permit to be parked a motor vehicle in the business district, as defined herein, between the hours of 3:00 a.m. and 5:00 a.m. of each day for the purpose of snow removal or street cleaning, except that this provision shall not apply to motor vehicles parked immediately adjacent upon the place of employment of the operator thereof, and said operator is then engaged in his or her employment, and except attended disabled vehicles and emergency vehicles.

(Editor's Note: Council adopted Ordinance 3 on May 5, 2003, amending section 5.10 Business District/Snow Removal/Street Cleaning.)

- 5.11 PARKING FOR CERTAIN PURPOSES ILLEGAL. No persons shall park a vehicle upon the roadway for any of the following principal purposes:
(Code of Iowa, Sec. 321.236(1))

1. Sale. Displaying such vehicle for sale.
2. Repairing. For commercial washing, greasing or repairing 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.
5. Storage. Storage or as junkage or dead storage for more than seventy-two (72) hours.
6. NONSELF-PROPELLED VEHICLES OR EQUIPMENT: No person shall park or store a trailer, camper, or other nonself-propelled vehicle or equipment on any street or municipal parking lot in the city.

The prohibition of this section shall not apply if the trailer, camper or other equipment is properly connected to a self-propelled vehicle and is promptly movable.

7. FIRE LIMITS: No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:
 - a. In any public alley within the fire limits of this city.
 - b. In any private alley within the fire limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.

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For purpose of this section, the word "street" means the entire width between the 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. The term "municipal parking lot" shall mean the entire portion of all parcels of property owned by the city and improved and designated for vehicular parking.

- 5.12 PARKING IN MUNICIPAL PARKING LOTS. Parking in the municipal parking lots owned and operated by the City of Paullina shall be restricted to parking of motor vehicles only. No person shall park trailers, recreational vehicles, boats, campers or any other items in the municipal parking lots unless these items are attached to a motor vehicle. Parking of motor vehicles in the municipal parking lots shall be limited to no more than 72 consecutive hours.

(Ordinance 24, adopted July 7, 2008 established Section 5.12 Parking in Municipal Parking Lots.)

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TITLE IV - TRAFFIC AND STREETS

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ARTICLE 6 - STOP AND YIELD

- 6.01 VEHICLES ENTERING STOP INTERSECTION. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line, or before entering the crosswalk, or before entering the intersection, or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(Code of Iowa, 321.322(1))

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

(Code of Iowa, Sec. 321.345)

1. Main Street from the south line of Bertha Street to the north line of Commerce Street.
2. Maple Street from the south corporate line to the north corporate line.
3. Day Street from the west line of Main Street to the west corporate line.
4. Grand Avenue from the east corporate line to the west corporate line.
5. Rutledge Street from the south line of Grand Avenue to the south line of Greene Street.

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

1. Bertha Street. Vehicles traveling west on Bertha Street shall stop at the west corporate line.
2. Clark Street. Vehicles traveling north on Clark Street shall stop at Broadway Street.
3. Mickley Street. Vehicles traveling on Mickley Street shall stop at Broadway Street.
4. Main Street. Vehicles traveling on Main Street shall stop at Broadway Street, Bertha Street and Logan Street.

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5. Rutledge Street. Vehicles traveling on Rutledge Street shall stop at Broadway Street, Commerce Street, Greene Street and Groesbeck Street.
6. Logan Street. Vehicles traveling on Logan Street shall stop at Main Street.
7. Mayme Street. Vehicles traveling west on Mayme Street shall stop at the County Blacktop (west corporate line).
8. Center Street. Vehicles traveling south on Center Street shall stop at Day Street.
9. Willow Street. Vehicles traveling on Willow Street shall stop at Commerce Street and Broadway Street.
(Ordinance No. 215, adopted June 17th, 1996)
10. Broadway Street. Vehicles traveling West on Broadway Street shall stop at Willow Street.
(Ordinance No. 215, adopted June 17th, 1996)
11. Cannon Street. Vehicles traveling south on Cannon Street shall stop at Commerce Street.
(Ordinance 220, adopted June 16, 1997)
12. Willow Street. Vehicles traveling east and west on Green Street shall stop at Willow Street.
(Ordinance 11, adopted September 19, 2005)
13. Greene Street. Vehicles traveling north and south on Willow Street shall stop at Greene Street.
(Ordinance 11, adopted September 19, 2005)
14. Commerce Street. Vehicles traveling south on the alley running north and south connecting North Mickley Street to Commerce Street and lying west of the city park shall stop at Commerce Street.
(Ordinance 19, adopted July 3, 2006)
15. Cannon Street. Vehicles traveling south on Cannon Street shall stop at Groesbeck Street.
16. Cannon Street. Vehicles traveling north on Cannon Street shall stop at Greene Street.
17. Groesbeck Street. Vehicles traveling east or west on Groesbeck Street shall stop at Cannon Street.
18. Greene Street. Vehicles traveling east or west on Greene Street shall stop at Cannon Street.

(Ordinance 30, adopted November 15, 2010) adopted sections 15 – 18)

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- 6.04 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 the driver is operating.
- 6.05 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 the driver shall proceed into the sidewalk area only when the driver can do so without danger to pedestrian traffic and the driver shall yield the right of way to any vehicular traffic on the street into which the driver's vehicle is entering.
(Code of Iowa, Sec. 321.353)
- 6.06 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his or her vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the driver shall have passed through such school crossing zone. The stops hereafter designated shall be in force from 7:00 a.m. to 5:00 p.m. on days when school is in session and when the signs are put in position to face oncoming traffic. A listing of these stops is below:
(Code of Iowa, Sec. 321.249)
- None Listed.
- 6.07 VEHICLES ENTERING YIELD INTERSECTION. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.
(Code of Iowa, Sec. 321.322(2))
- 6.08 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the foregoing section, at the following intersections if approaching from the directions indicated:
1. Main Street. Vehicles traveling south on Main Street shall yield at Bertha Street.

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2. Bertha. Vehicles traveling on Bertha Street shall yield at Rutledge Street.
 3. Groesbeck Street. Vehicles traveling west on Groesbeck Street shall yield at Willow Street.
- 6.09 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.
(Code of Iowa, Sec. 321.327)

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ARTICLE 7 - ONE WAY STREETS

- 7.01 ONE WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction when appropriate signs are in place.
(Code of Iowa, 1981, Sec. 321.236(4))

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ARTICLE 8 - TRAFFIC CONTROL DEVICES

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.256)

8.06 POSSESSION OF TRAFFIC CONTROL DEVICE. It shall be unlawful for any person to have in the person's possession any official traffic control device except by reason of the person's employment.

(Code of Iowa, Sec. 321.260)

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

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- 8.08 TRAFFIC CONTROL DEVICES. The Council shall establish by the resolution and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersection, yield right-of-way intersection, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power by resolution to designate and indicate intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; 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.

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ARTICLE 9 - LOAD AND WEIGHT REQUIREMENTS

9.01 TEMPORARY EMBARGO. If the council by resolution declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

(Code of Iowa, Sec. 321.471 & 321.472)

9.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The mayor may, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by state law or city ordinance over those streets named in the permit which are under the jurisdiction of the city and for which the city is responsible for maintenance.

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

9.03 LOAD LIMITS ON BRIDGES.

RESERVED

9.04 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

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

1. THROUGH TRUCKS. Every motor vehicle weighting six (6) tons per axle or more, or any semi-tractor with attached trailer, when loaded or empty, having no fixed terminal within the city or making no scheduled or definite stops within the city for the purpose of loading or unloading shall travel over or upon the following streets within the city and none other:

- A. Maple Street from corporate limit to corporate limit.
- B. Mickley Street from Broadway to Railroad Street.
- C. Main Street from Broadway Street to Grand Avenue.
- D. Rutledge Street from Broadway to Grand Avenue.
- E. Willow Street from Greene Street to Grand Avenue.
- F. Center Street corporate limit to Greene Street.
- G. Broadway from Willow Street to Maple Street.
- H. Railroad Street from Rutledge Street to Mickley Street.

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- I. Greene Street from Center Street to Willow Street.
 - J. Commerce Street to North Wood Street in Paullina Business Park.
 - K. Commerce Street from corporate limit to Maple Street.
 - L. Grand Avenue from corporate limit to corporate limit.
 - M. Clark Street from Commerce Street to Grand Avenue.
 - N. Wood Street in the Paullina Business Park from Highway 10 to the dead end.
2. DELIVERIES OFF TRUCK ROUTE. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the city for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.
 3. OWNER'S RESPONSIBILITY. The owner, or any other person employing or otherwise directing the driver of any vehicle, shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.472)
 4. EXCEPTIONS. Exceptions to the foregoing truck routes may be granted by special permit of the council upon showing of unusual and burdensome facts and circumstances. Also, exceptions may be granted by special permit in accordance with Section 321.473 of the Code of Iowa for garbage truck and other related city services and city functions.
 5. FIXED TERMINAL. Means a presently existing certain or definite end point established or used for operating a business enterprise and shall not include any such point that is or may be used as a personal residence, in whole or in part, unless such point is on a designated truck route and such point's business use is in conformity with the zoning ordinances of the City of Paullina.
 6. PENALTIES. Any person who violates this section shall, upon conviction or a plea of guilty, be subject to a fine determined by dividing the difference between the actual weight and the maximum weight established by ordinance (12,000 lbs. lbs/axle) by one hundred (100) and multiplying the quotient by Two Dollars (\$2.00). The fine for a prohibited semi-trailer shall be \$25.00
(Code of Iowa, Sec. 321.473)

Editor's Note: Ordinance 42 approved October 19, 2015 amended 9.05 (1-2) & (6).

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ARTICLE 10 - PEDESTRIANS

- 10.01 USE SIDEWALKS. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent street.
- 10.02 WALKING IN STREET. Where sidewalks are not provided, pedestrians shall at all times when walking on or along a street, walk on the left side of the street, or facing traffic on one-way streets.
(Code of Iowa, Sec. 321.326)
- 10.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
(Code of Iowa, Sec. 321.328)
- 10.04 HITCH HIKING. No person shall stand in the travelled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.
(Code of Iowa, Sec. 321.331)

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ARTICLE 11 - BICYCLES

- 11.01 EFFECT OF REGULATIONS. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.
(Code of Iowa, Sec. 321.236(10))
- 11.02 TRAFFIC CODE APPLICABLE. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.
(Code of Iowa, Sec. 321.234)
- 11.03 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- 11.04 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. The following shall also apply:
1. NOT MORE THAN TWO ABREAST. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
 2. USE PATH WHEN AVAILABLE. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
- 11.05 RIDING ON SIDEWALKS. No person shall ride a bicycle upon a sidewalk within a business district. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey such signs. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.
- 11.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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- 11.07 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.
- 11.08 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, in such a manner as to afford the least obstruction to pedestrian traffic.
- 11.09 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.
- 11.10 EQUIPMENT ON BICYCLES. No person shall operate a bicycle unless it is equipped with the following equipment:
1. LAMP. A bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
 2. BRAKE. A brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
- 11.11 LICENSE. There is no bicycle license required at this time.
- 11.12 RENTAL AGENCIES. A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and an indicia is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required in this article.
- 11.13 TOWING. It shall be unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the city.
- 11.14 FOLLOWING FIRE TRUCK. No person riding a bicycle shall follow a fire truck or other fire equipment at any time.
- 11.15 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 operation or others.

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ARTICLE 12 - GOLF CARTS

12.01 PURPOSE. The purpose of this chapter is to preserve and protect the public health, safety and welfare by regulating the use of golf carts within the city.

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

1. Golf carts shall mean and include any powered vehicle which are particularly used for golf recreation, whether so used or not, and which are either not registered, or registerable, by the State of Iowa as a motor vehicle for lack of capability to be so registered.

12.03 OPERATION ON PUBLIC WAYS PROHIBITED. Golf carts shall not, except as otherwise provided herein for the handicapped, be operated upon the traveled way of sidewalks or public streets or alleys in the city.

12.04 HANDICAPPED PERSONS OPERATION OF GOLF CARTS ON CITY STREETS. Handicapped persons, as defined by Section 601E(1) of the Code of Iowa, possessing a valid motor vehicle operator's license issued pursuant to Chapter 321 of the Code of Iowa, may operate golf carts on the city streets during daylight hours and subject to the following conditions:

1. IDENTIFICATION. A handicapped identification device issued pursuant to Section 601E (1) of the Code of Iowa shall be prominently displayed on the golf cart at all times during operation.
2. REGISTRATION. Operation shall not commence until the handicapped person has registered his or her name, address, operator's license number, handicapped identification number, and a brief description of the golf cart to be operated with the police department.
3. EQUIPMENT. The golf cart shall be equipped with a slow moving vehicle sign, bicycle safety flag, adequate brakes, turn signals, adequate horn and reflectorized warning devices.
4. PROHIBITED STREETS. Golf carts shall not be operated by handicapped upon the following designated streets or parts thereof:
 - A. Grand Avenue
 - B. Maple Street

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5. STREET CROSSINGS. Authorized persons operating golf carts pursuant to this section shall be allowed to cross prohibited streets but shall cross said streets only at intersections.
 6. MOTOR VEHICLE LAW. Persons authorized to operate golf carts pursuant to this section shall obey all statutes and ordinances covering the operation of motor vehicles.
- 12.05 MUFFLING OF EXCESSIVE NOISE REQUIRED. All golf carts, while being operated, shall be equipped with a muffler in good working order to prevent excessive and unusual noise.

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ARTICLE 13 - PARADES

13.01 PARADE REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

1. "PARADE" DEFINED. Parade shall mean any march or procession of persons or vehicles organized for marching or moving on the street in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
2. PERMIT REQUIRED. No parade shall be conducted without first obtaining a written permit from the mayor or chief of police. Such permit shall state the time and date for the parade to be held and the streets or general route therefore. 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.
3. PARADE NOT A STREET OBSTRUCTION. Any parade for which a permit shall have 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 FIREMAN. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of the members of the police and the fire departments.

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CHAPTER 1: TRAFFIC CODE

ARTICLE 14 - ENFORCEMENT

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

14.02 PARKING VIOLATIONS: ALTERNATE. Admitted violations of any parking restrictions imposed by this chapter may be charged upon a simple notice of a fine of ten (\$10.00) dollars payable at the office of the city clerk. If such fine is not paid within seventy-two (72) hours, a complaint may be filed as provided by Chapter 804 of the Code of Iowa.

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

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

14.04 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that the particular vehicle described in the information was parked in violation of this chapter, and the defendant named in the information was the registered owner at the time in question.

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

1. DISABLED VEHICLE. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

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2. **ILLEGALLY PARKED VEHICLE.** When any vehicle is left unattended upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.
(Code of Iowa, Sec. 321.236(1))
 3. **PARKED OVER FORTY-EIGHT HOUR PERIOD.** When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found the owner shall be given an opportunity to remove the vehicle.
(Code of Iowa, Sec. 321.236(1))
 4. **COSTS.** In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.
(Code of Iowa, Sec. 321.236(1))
 5. **SNOW REMOVAL.** When any vehicle is left parked in violation of a ban on parking during snow removal operations.
- 14.06 **SCHEDULED VIOLATIONS.** For violations of the Traffic Code which are designated by Section 805.8A of Code of Iowa to be scheduled violations, the schedule fine for each of those violations shall be specified in Section 805.8A of the Code of Iowa.

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 15 - STREET AND ALLEY REGULATIONS

- 15.01 OBSTRUCTING OR DEFACING STREETS. It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.
(Code of Iowa, Sec. 716.6)
- 15.02 INJURING NEW PAVEMENT. It shall be unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.
(Code of Iowa, Sec. 364.12(2))
- 15.03 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, grass clippings, weed trimmings and clipping, bush and tree trimmings or any other kind of debris.
(Code of Iowa, Sec. 321.369)
- 15.04 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person to willfully remove, throw down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed for the purpose of guarding or enclosing unsafe or dangerous places in a highway, street, alley, recreational trail, avenue or bridge without the consent of the person in control.
(Code of Iowa, Sec. 716.1)
- 15.05 EXCAVATIONS. The following shall apply to any excavations made on streets in the city:
1. PERMIT. No person shall dig, excavate or in any manner disturb any street in the city, unless such person shall first obtain an excavation permit as provided in the municipal code.
 2. APPLICATION. Before an excavation permit shall be granted, the person shall file with the clerk a written application. The application shall give an exact description of the property, by lot and street number, in front of or along which it is desired to excavate, state the purpose and for whom and by whom the excavation is to be made, and who will be responsible for the refilling of said ditch and restoration of the street surface.
- 15.06 DUMPING OF SNOW. It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition, except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow

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onto the streets temporarily, such accumulation shall be removed promptly by the property owner or the property owner's agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

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

- 15.07 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any city official, police officer or member of the fire department.
- 15.08 PLAYING IN STREETS. It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by authority of the council for such purposes.
- (Code of Iowa, Sec. 364.12(2))
- 15.09 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street.
- 15.10 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any new or used car or cars, machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale or offering same for sale, without permission of the council.
- 15.11 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.
- 15.12 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.
- 15.13 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.

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15.14 MAILBOXES. The erection, construction, placing and maintaining of any boxes for United States Mail on the public streets of the City of Paullina is hereby prohibited, except for the location on city streets designated as post-roads within the city limits of the City of Paullina by the US Postal Department. Post-roads are the roads traveled by rural delivery carriers, and the mailboxes, if any, shall be located on only one side of the road traveled by the carrier, as follows:

- a. On Main Street from Broadway to Grand Avenue on the East side.
- b. On Grand Avenue from Main Street to the West city limits on the North side.
- c. On all of Maple Street on the East side.
- d. On Broadway from Maple to Main Street on the North side.
- e. On Groesbeck Street from Main to Maple Street on the South side.

Mailboxes must be in compliance with postal regulation identified as T2 (traditional) style measuring 19-1/2 inches in length, 6 inches in width, and 7 inches in height.

No mailbox shall be erected without first obtaining a written permit from the City Clerk, and the Clerk shall determine from the application made that its construction and erection shall be within the following regulations:

- f. Directly in front of property of mailbox owner or directly across the street from property of mailbox owner if property is on opposite side of street where mailboxes are permitted.
- g. One foot back from the face of the curb or road edge if there is no curb.
- h. Color shall be white/aluminum/natural metal color/or other neutral color subject to approval by the City Clerk.
- i. Posts shall be of wood, either 4" x 4" or 4" x 6".
- j. Height of the mailbox from the ground level shall be determined to be in accordance with postal regulations.

A change in the designation of a post-road eliminating the particular location where the mailboxes are permitted shall give the City the right to have the mailboxes removed, however, mailboxes may be relocated to new post-road designations by the US Postal Department.

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Violations of this ordinance shall be municipal infractions and penalties may be incurred accordingly, and the City shall have the right to remove the mailbox if not in compliance after a 10 day written notice by certified mail to the owner.

Editor's Note: Ordinance 245, amended Section 15.14.

- 15.15 VIOLATIONS OF CHAPTER. A violation of a provision of this chapter is a municipal infraction except Section 15.01 of this Chapter.
- 15.16 USE OF PARKING. It shall be unlawful to temporarily or permanently park, store or place any car, truck, vehicle, junk or any other goods, wares and merchandise of any kind upon any street parking without permission of the council.
- 15.17 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.
- 15.18 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.
- 15.19 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the costs of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 16 - NAMING OF STREETS

16.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. EXTENSION OF EXISTING STREET. Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.
2. ORDINANCE. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.

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

(Code of Iowa, Sec. 354.26)

16.03 OFFICIAL STREET NAME MAP. Streets within the city are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this article. The Official Street Name Map shall be identified by the signature of the mayor, and bearing the seal of the city under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 16.03 of Title IV of the Municipal Code of Paullina, Iowa.

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

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

(Code of Iowa, Sec. 354.26 & Sec. 592.7)

16.06 SWANSON STREET. The sixty (60) feet wide street, the south line of which is 1235.41 feet north of the southeast corner of Section Four (4), Township Ninety-Four (94), North - Range Forty-One (41), West of the 5th P.M., O'Brien County, Iowa, from O'Brien County Road L-48, also known as Maple Street on the east, and the west line on Main Street on the west, south of and adjacent to the Park Complex, is hereby named Swanson Street.

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ARTICLE 17 - VACATION AND DISPOSAL

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

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

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

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

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

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

(Code of Iowa, Sec. 364.7)

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

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

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>
69	12-1-58
77	6-4-62
80	11-5-62

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115	11-1-71
143	4-17-79
158	12-6-82
223	06-15-98
224	08-03-98
228	04-05-99
234	08-02-99
5	12-06-04
13	12-19-05
34	06-18-2012
37	04-15-2013

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ARTICLE 18 - STREET GRADES

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

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.

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>
27	3-26-56
28	3-26-56
81	5-23-63
101	5-8-67
146	6-2-80
203	5-17-93
221	5-18-98
241	8-06-01
40	5-18-2015

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ARTICLE 19 - CONTROLLED ACCESS FACILITIES

19.01 EXERCISE OF POLICE POWER. This article 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 and 364.1)

19.02 DEFINITION. The term "controlled access facility" shall mean a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right 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)

19.03 RIGHT OF ACCESS LIMITED. No person shall have any right of ingress or egress to, from or across any controlled access facility except at such points as may be permitted by the Iowa Department of Transportation and designated by ordinance.

(Code of Iowa, Sec. 306A.4)

19.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City of Paullina, described as follows:

(Code of Iowa, Sec. 306A.3)

1. PROJECT NO. FN-10-2-(5)--21-71. On the Primary Road System extension improvement, Project No. FN -10-2-(5)--21-71, Primary Road Iowa No. 10, within the City of Paullina, described as follows:

On Grand Avenue from Willow Street east to the east corporate line, regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-10-2-(5)--21-71, on file in the office of the clerk.

19.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It shall be unlawful for any person to:

(Code of Iowa, Sec. 306A.3)

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. URNS. Make a left turn or a semi-circular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

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3. USE OF LANES. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section or line.
 4. ENTER FACILITY. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.
- 19.06 PARKING RESTRICTIONS. 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 thirty-five (35) feet.
 3. PROJECT NO. FN-10-2-(5)--21-71. Parking of any nature is prohibited on Project No. FN-10-2-(5)--21-71 in any of the following specifically designated locations.
 - A. Grand Avenue, on both sides, from the west corporate line to the east corporate line.

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ARTICLE 20 - BUILDING NUMBERING

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

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

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

1. **OBTAIN BUILDING NUMBER.** The owner shall obtain the assigned number to the owner's principal building from the clerk.
(Code of Iowa, Sec. 364.12(3d))
2. **DISPLAY BUILDING NUMBER.** The owner shall place or cause to be installed and maintain on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12(3d))
3. **FAILURE TO COMPLY.** If an owner refuses to number a building as provided, or fails to do so for a period of thirty (30) days after being notified in writing by the city to do so, the city may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(3h))

20.03 BUILDING NUMBERING MAP. The clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 3: SIDEWALKS

ARTICLE 21 - SIDEWALK REGULATIONS

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

1. "SIDEWALK" shall mean all permanent public walks in business, residential or suburban areas.
2. "ESTABLISHED GRADE" shall mean that grade established by this city for the particular area in which a sidewalk is to be constructed.
3. "BROOM FINISH" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
4. "WOOD FLOAT FINISH" shall mean a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.
5. "PORTLAND CEMENT" shall mean any type of cement except bituminous cement.
6. "ONE-COURSE CONSTRUCTION" shall mean that the full thickness of the concrete is placed at one time, using the same mixture throughout.
7. "DEFECTIVE SIDEWALK" shall mean any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to three-fourths (3/4) inch or more.
 - B. Horizontal separations equal to three-fourths (3/4) inch or more.
 - C. Holes or depressions equal to three-fourths (3/4) inch or more in width and depth.
 - D. Spanning over fifty (50) percent of a single square or panel of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
 - E. A single square or panel of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot or is cracked in such a manner that it constitutes a danger or a potential danger to the public.
 - F. A sidewalk with any part thereof missing to the full depth.
 - G. A deviation on the staked and constructed grade equal to three-fourths (3/4) inch or more.

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8. "SIDEWALK IMPROVEMENT" shall mean the construction, reconstruction, repair, replacement or removal of a public sidewalk and/or the excavating, filling or depositing of material in public right-of-way in connection therewith.
 9. "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.
- 21.02 RESPONSIBILITY FOR MAINTENANCE. It shall be the responsibility of the abutting property owners to maintain in a safe and hazard free condition free from any one or more of the defects defined in 21.01(&) set forth above, any sidewalk outside the lot and property lines and inside the curb lines or travelled portion of the public street.
(Code of Iowa, Sec. 364.12(2c))
- 21.03 FAILURE TO MAINTAIN - PERSONAL INJURIES. If the abutting property owner does not maintain sidewalks as required and action is brought against the city for personal injuries alleged to have been caused by its negligence, the city may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the 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)
- 21.04 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required the council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice the council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax or an assessment.
(Code of Iowa, Sec. 364.12(2d,e))
- 21.05 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/BRICK. Portland cement concrete shall be the only cement used in the construction and repair of sidewalks, except that brick sidewalks in existence on or before June 20, 1994 may be repaired, replaced or reconstructed with bricks in a

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manner that will meet all of the other specifications for sidewalks established by the sidewalk regulations ordinance.

(Ordinance #208, adopted June 20, 1994)

2. CONSTRUCTION. Sidewalks shall be of one-course construction.
3. SIDEWALK BASE. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the city.
4. SIDEWALK BED. The sidewalk bed shall be placed so that the surface will be to the established grade at its location.
5. LENGTH, WIDTH AND DEPTH.
 - a. Residential sidewalks shall be at least three (3) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
 - b. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length and width.
 - c. Driveway areas shall not be less than six (6) inches in thickness.
6. LOCATION. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the council shall establish a different distance due to circumstances.
7. GRADE. Curb tops shall be on level with the center line of the street which shall be the established grade.
8. ELEVATIONS. The street edge of a sidewalk shall be at an elevation even with the curb when at the curb and not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk in residential areas.
9. SLOPE. All sidewalks shall slope 0.25 inch per foot toward the curb.
10. FINISH. All sidewalks shall be finished with a "broom" or "wood float" finish.
11. RAMPS FOR HANDICAPPED. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty inches wide, shall be sloped at not greater than one (1) inch of rise per twelve inches lineal distance,

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except that a slope no greater than one (1) inch or rise per eight inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

(Code of Iowa, Sec. 601D.9)

- 21.06 OPENINGS AND ENCLOSURES. It shall be unlawful for a person to:
1. STAIRS AND RAILINGS. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the council.
 2. OPENINGS. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
 3. PROTECT OPENINGS. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.
- 21.07 ENCROACHING STEPS. It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.
- 21.08 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.
- 21.09 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It shall be the responsibility of the abutting property owners to promptly remove from the sidewalks natural accumulations of snow and ice, and to remove accumulations of soil or ice (formed from water flowing onto the walk and freezing). If a property owner does not remove natural accumulations of snow or ice or remove the other accumulations within 24 hours after the end of the weather event, the city may do so and assess the costs against the property owner for collection in the same manner as a property tax.
- 21.10 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.
- 21.11 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.
- 21.12 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

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- 21.13 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.
(Code of Iowa, Sec. 364.12(2))
- 21.14 MERCHANDISE DISPLAY. It shall be unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to a building in the business district be occupied for such purposes.
- 21.15 SALES STANDS. It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances including vending machines or commodities on any sidewalk without first obtaining a written permit from the council.
- 21.16 VIOLATIONS OF CHAPTER. Except Sections 21.10, 21.11 and 21.12 and as otherwise provided, a violation of a provision of this chapter shall be a municipal infraction. Violations of sections 21.10, 21.11 and 21.12 may be prosecuted as either a municipal infraction or under the Iowa Code in the discretion of the arresting or citing officer and as the circumstances indicate.
- 21.17 PERMIT REQUIRED. No sidewalk improvement, except on private property, shall be made within the City without first receiving a permit thereof. Said permit shall be issued without charge by the City Clerk pursuant to the provisions of Title VI - Community Development and Environment, Chapter 5, Building and Land Use Regulations, Code of Ordinances of the City of Paullina, Iowa, 2009.
- 21.18 NEW SIDEWALK CONSTRUCTION. The owners of a majority of linear feet of property in any block fronting on any public street, highway, avenue or court may, by petition to the Council, request a resolution approving sidewalk improvements, including specifically the development of new sidewalks where none existed prior to the effective date of this amendment, except that the same shall not be made unless three-fourths of all members of the Council, by recorded vote, order the making thereof. If a sidewalk improvement shall not make such improvement, the Council may serve notice and complete such work and assess the costs against the abutting property for the collection in the same manner as a property tax or an assessment.
- 21.19 DEVELOPMENT OF VACANT OR BARE GROUND. Whenever an application for a permit is made pursuant to Title V - Community Development and Environment, Chapter 5, Building and Land Use Regulations, of the Code of Ordinances for the improvement of bare or vacant ground, the same shall require that sidewalk improvements be made.

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21.20 COUNCIL MAY ORDER SIDEWALK IMPROVEMENTS. The Council, by resolution, may order sidewalk improvements upon any street, highway, avenue or court, which shall specify the street along which the property in front of which the sidewalk improvements shall be made, the material to be used, the character and kind of sidewalk to be built, the width thereof and the time within which the same shall be completed. If such sidewalk improvements are not completed within the time stated in the resolution ordering said improvements, the Council shall cause said improvements to be made and assess the cost thereof against the abutting property for the collection of said costs in the same manner as a property tax or an assessment.

(Code of Iowa, Sec. 364.12 and 364.13)

21.21 EXCEPTIONS. The owner of any property who is required to make any sidewalk improvements under this ordinance may make application in writing to the Council for an exception. The Council, after public hearing and by three-fourths vote of all of its members, may grant an exception from all or any part thereof for any of the following reasons, to-wit:

- A. The property is found not to be within the City limits.
- B. The property adjoins other property not within the City limits so that the proposed sidewalk will not directly lead to any other point within the City limits off the owner's property.
- C. Any other reason the Council may determine appropriate under the circumstances.

21.22 REPLACEMENT OF SIDEWALKS REMOVED. Sidewalks in existence at the time of the adoption of the amendments to the sidewalk regulations on September 13, 1990, and removed on or after said date shall be replaced by sidewalks which shall comply in all respects with the standards required by the Sidewalk Regulations Ordinance for new sidewalks and the replacement shall be completed on or before the 1st day of October after removal, and, if not replaced by said date, the City may cause the replacement to be made and assess the cost thereof against the abutting property for the collection of said costs in the same manner as a property tax or an assessment.

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CHAPTER 4: SNOWMOBILES

ARTICLE 22 - GENERAL PROVISIONS

22.01 SNOWMOBILE DEFINED. "Snowmobile" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight 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, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1(20))

22.02 PLACE OF OPERATION. The operators of snowmobiles shall observe the following limitations as to where snowmobiles may be operated:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season.

(Code of Iowa, 321G.9(4)(a))

2. Prohibited Streets. Snowmobiles may not be operated on any of the following designated streets:

(Code of Iowa, 321G.9(4)(a))

A. Main Street from Groesbeck Street to the intersection of Main Street with Railroad Street.

B. From a point where the alley from Block 2 enters said street, thence west across Main Street to a point where the north-south alley in Block 3 enters said Railroad Street.

C. Broadway Street from Rutledge Street to Mickley Street.

D. Any street adjacent to a school or church while they are in session.

E. Any street adjacent to a nursing home.

3. Other Streets. Snowmobiles may be operated on any street within the city for the sole and exclusive purpose of using the most direct roadway for the ingress to an egress from the city. No snowmobile shall be driven on any roadway solely for entertainment or pleasure.

(Code of Iowa, Sec. 321G.9(4)(a))

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4. Parks and Other Public Land. Snowmobiles shall not be operated in any city park, playground or upon any other publicly owned property except with the express permission of the governing body thereof.
 5. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.
 6. Sidewalk or Parking. No snowmobiles shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.
 7. Airport. Snowmobiles may be operated on the Paullina Municipal Airport with the exception of that portion of the runway located inside the line formed by the electrical runway lights and except at such times and places thereon that may cause a hazardous condition for air traffic.
- 22.03 MANNER OF OPERATION. No person shall operate a snowmobile in the city except as hereafter provided:
1. Registration. No snowmobile shall be operated in the city unless registered pursuant to state law and unless the identifying number set forth in the registration is displayed on each side of the snowmobile.
(Code of Iowa, Sec. 321G.3 & 321G.5)
 2. Equipment. All snowmobiles shall be equipped with muffling devices, lights and other equipment required by state law or regulation.
(Code of Iowa, Sec. 321G.2, 321G.11, & 321G.12)
 3. Traffic Code. Snowmobile operators shall observe all state and local traffic-control regulations and devices.
(Code of Iowa, Sec. 321.256)
 4. Speed. Snowmobiles shall not be operated on streets at a speed in excess of twenty (20) miles per hour nor at any time at a rate of speed greater than reasonable and proper under all existing circumstance.
(Code of Iowa, 321G.13(1))
 5. Careless Operation. No person shall operate a snowmobile in careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
(Code of Iowa, 321G. 13 (1)(b))

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6. Intoxicated. No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs.
7. Lights. No person shall operate a snowmobile without a lighted headlight and tail-light from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred (500) feet ahead.

(Code of Iowa, Sec. 321G12))

8. Unattended. No operator or owner shall leave or allow a snowmobile to be or remain unattended or public property while the motor is running or with keys in the ignition switch.
9. Direct Crossing. A snowmobile may make a direct crossing of a prohibited street or highway provided:

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

- A. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing; and
 - B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveling way of the street or highway;
 - C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
10. Operation By Persons Under Sixteen. A person under sixteen years of age shall not operate a snowmobile on a designated snowmobile trail, public land, or public ice unless the operation is under the direct supervision of a parent, legal guardian, or another person of at least eighteen years of age authorized by the parent or guardian, who is experienced in snowmobile operation and who possesses a valid driver's license, as defined in section 321.1, or an education certificate issued under this chapter.

(Code of Iowa, 321G.20)

11. Education Certificate. A person twelve through seventeen years of age shall not operate a snowmobile on public land, public ice, a designated snowmobile trail, or land purchased with snowmobile registration funds in this state without obtaining an education certificate approved by the department and having the certificate in the person's possession, unless the person is accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid driver's license, as defined in section Code of Iowa 321.1, or an education certificate issued under Chapter 321.G Code of Iowa.

(Code of Iowa, 321G.24(1))

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12. A valid snowmobile safety or education certificate or license issued by a governmental authority of another state shall be considered a valid certificate or license in this state if the certification or licensing requirements of the governmental authority are substantially the same as the requirements of this chapter 321G Code of Iowa as determined by the commission.
(Code of Iowa, 321G.24(5))
 13. Single File. Snowmobiles shall be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.
 14. Towing. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.
 15. Nursery. No snowmobile shall be operated in any tree nursery or planting in a manner which damages or destroys growing stock.
(Code of Iowa, Sec. 321G.13(1)(e))
 16. Railroad Right-Of-Way. No snowmobile shall be operated upon a railroad right-of-way except as provided by state law.
(Code of Iowa, Sec. 321G.13(1)(h))
 17. Firearms. No person shall operate or ride in any snowmobile with any firearm in the person's possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.
(Code of Iowa, Sec. 321.G13(2))
 18. Violation of "Stop" Signal. It shall be unlawful for any person, after having received a visual or audible signal from any peace officer to come to a stop, to operate a snowmobile in willful or wanton disregard of such signal or interfere with or endanger the officer or any other person or vehicle, or increase the person's speed or attempt to flee or elude the officer.
(Code of Iowa, Sec. 321.17)
- 22.04 NEGLIGENCE. The owner and operator of any snowmobile shall be liable for any injury or damage occasioned by the negligent operation of such snowmobile.
(Code of Iowa, Sec. 321G.18)

TITLE V - BUSINESS AND OCCUPATION REGULATIONS

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TITLE V - BUSINESS AND OCCUPATION REGULATIONS

CHAPTER 1: LIQUOR AND BEER CONTROL

ARTICLE 1 - GENERAL PROVISIONS

1.01 PURPOSE. The purpose of this chapter is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, morals and general welfare of this community.

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

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

(Code of Iowa, Sec. 123.3(34))

a. Has such financial standing and good reputation as will satisfy the commission and the administrator that the person will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his or her operations under state law. The administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. Does not possess a federal gambling stamp.

c. Is not prohibited by the Code of Iowa from obtaining a liquor license or beer permit.

(Code of Iowa, Sec. 123.40)

d. Is a Citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.

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

f. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, administrators and partners of such person, and to any person who directly or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or

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profits of such person. For the purpose of this provision, an individual and his or her spouse shall be regarded as one person.

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

(Code of Iowa, Sec. 123.3 (11))

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

(Code of Iowa, Sec. 123.3 (12))

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

(Code of Iowa, Sec. 123.2 (18))

5. "Pharmacy" shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, Sec. 123.3 (35))

6. "Hotel or Motel" shall mean a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.

(Code of Iowa, Sec. 123.3(20))

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

8. "Administrator" shall mean the administrator of the division.

(Code of Iowa, Sec. 123.3(1))

9. "Division" or "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.

(Code of Iowa, Sec. 123.3(16))

- 1.03 STATE LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

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1.04 PERSONS UNDER LEGAL AGE.

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

(Code of Iowa, Sec. 123.47 (1))

2. A person or persons under legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for 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))

3. A person who is under legal age, other than a licensee or permittee, who violates Iowa Code Section 123.47 regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(Code of Iowa, Sec. 123.47 (3))

- a. A simple misdemeanor punishable as a scheduled violation under Code of Iowa section 805.8C, subsection 7.
- b. A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.
- c. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.
4. 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])

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1.05 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. "Arrest" means the same as defined in section 804.5 of the Code of Iowa and includes taking into custody pursuant to section 232.19 of the Code of Iowa.
 - B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. "Peace Officer" means the same as defined in section 801.4 of the Code of Iowa.
 - D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function.
3. A person shall not be intoxicated or 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)

- 1.06 PROTECTIVE CUSTODY. The person being taken to a treatment facility is in protective custody and is not under arrest and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(Code of Iowa, Sec. 125.34(2))

TITLE V - BUSINESS AND OCCUPATION REGULATIONS

1.07 CHEMICAL TEST. When a peace officer arrests a person for intoxication under Section 1.05 of this Code of Ordinances, the peace officer shall comply with the requirements of Section 123.46, Code of Iowa, 1987, and the evidentiary requirements and presumptions of said section shall apply in a prosecution under Section 1.05.

1.08 ILLEGAL KEEPING OF INTOXICANTS. It shall be unlawful for a person to operate or conduct or allow to be operated, a place where alcoholic beverages are kept, sold or given away except in conformity with this Title and Title VI of the Iowa Code governing alcoholic beverages.

(Code of Iowa, Sec. 123.2)

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

(Code of Iowa, Sec. 123.46(2))

TITLE V - BUSINESS AND OCCUPATION REGULATIONS

CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

- 2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and state law.
(Code of Iowa, Sec. 123.2)
- 2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his or her discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.
(Code of Iowa, Sec. 123.38)
- 2.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:
1. CLASS "A". A class "A" beer permit shall allow the holder to manufacture, subject to the Iowa Alcoholic Beverages Control Act, and sell beer at wholesale for consumption off premises and for sales within Iowa only to class "A", "B" or "C" beer permit holders or a liquor control licensee. No manufacture of wine as defined by the Iowa Code, Section 123.3(7) is permitted under this permit.
(Code of Iowa, Sec. 123.124 and 123.130)
 2. CLASS "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.
(Code of Iowa, Sec. 123.124&123.131)
 3. CLASS "C". A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.
(Code of Iowa, Sec. 123.124 & 123.129)

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

1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.
(Code of Iowa, 123.173 & 123.177)
2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.
(Code of Iowa, 123.173 & 123.177)

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

1. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittee only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.
(Code of Iowa, Section 123.30(3)(a))
2. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees, wine from class "A" wine permittee only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises.
(Code of Iowa, Sec. 123.30(3)(b))
3. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittee only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

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

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

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4. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other liquor control licenses, wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license. The division may issue a Class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other applicant for a class "E" license has been made within the previous twelve consecutive months.

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

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

(Code of Iowa, Sec. 123.31)

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

(Code of Iowa, Sec. 123.32 & 123.127)

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

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

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

(Code of Iowa, Sec. 123.128&123.129)

3. WINE PERMIT. With class "A" permits, Five Thousand Dollars (\$5,000.00), and with class "B" permits, One Thousand Dollars (\$1,000.00) and with both conditioned upon compliance with all applicable laws and the provisions of the Iowa Alcoholic Beverage Control Act.

(Code of Iowa, Sec. 123.175 and 123.176)

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- 2.08 CONDITIONS FOR APPROVAL. No liquor control license or beer or wine permit shall be approved unless:
1. CHARACTER OF APPLICANT. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.
(Code of Iowa, Sec. 123.30(1))
 2. RIGHT OF ENTRY. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.
(Code of Iowa, Sec. 123.30(1))
 3. ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS. No interior access or residential or sleeping quarters is permitted or maintained unless permission is granted by the administrator in the form of a living quarters permit.
(Code of Iowa, Sec. 123.30(2))
 4. LOCATION OF PREMISES. The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.
(Code of Iowa, Sec 123.128(1b))
 5. SEATING CAPACITY. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
(Code of Iowa, Sec. 123.128(1b))
 6. CONFORM TO APPLICABLE LAWS. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
(Code of Iowa, Sec. 123.30(2) & 123.127(2))
- 2.09 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.
(Code of Iowa, Sec. 123.92)
- 2.10 SEPARATE LOCATIONS. Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.
(Code of Iowa, Sec. 123.140)

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2.11 INVESTIGATION. Upon receipt of an original application for a liquor license or beer or wine permit by the clerk, it shall be forwarded to any peace officer who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the fire chief to inspect the premises to determine if they conform to the requirements of the city, and no license or permit shall be approved until or unless an approving report has been filed with the council by such officer.

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

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

1. CLASS "A" BEER. For a class "A" beer permit, the annual fee shall be Two Hundred Fifty Dollars (\$250.00).

(Code of Iowa, Sec. 123.134(1))

2. CLASS "B" BEER. For a class "B" beer license the annual fee shall be:

1) Without Sunday sales privileges \$100.00

2) With Sunday sales privileges \$120.00

(Code of Iowa, Sec. 123.134(2&5))

3. CLASS "C" BEER. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:

a. Up to one thousand five hundred square feet ... \$75.00

b. Over one thousand five hundred square feet and up to two thousand square feet \$100.00

c. Over two thousand and up to five thousand square feet ...\$200.00

d. Over five thousand square feet ...\$300.00

(Code of Iowa, Sec. 123.134(3))

e. A Sunday sales permit will increase the fee by 20%.

(Code of Iowa, Sec. 123.134(5))

4. CLASS "A" WINE. For a class "A" wine permit the annual fee is \$750.00.

(Code of Iowa, Sec. 123.179(1))

5. CLASS "B" WINE. For a class "B" wine permit the annual fee is \$500.00.

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(Code of Iowa, Sec. 123.179(2))

6. SPECIAL (WINE ONLY) CLASS "C" LIQUOR. For a special class "C" liquor control license which limits sales to wine, the annual fee shall be:

(Code of Iowa, Sec. 123.36(6), (7)) (IAC, 1986, 185-5.16(123) and 185-5.17(123))

- a. Without Sunday sales privileges - \$150.00.
- b. With Sunday sales privileges - \$180.00.

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

- a. Club, less than 250 members:
 - without Sunday sales privileges \$400.00
 - with Sunday sales privileges \$480.00
- b. Club, which is a post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:
 - without Sunday sales privileges \$400.00
 - with Sunday sales privileges \$480.00

(Code of Iowa, Sec. 123.36(2))

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

- a. Cities without Sunday sales privileges \$800.00
- b. Cities with Sunday sales privileges \$960.00

(Code of Iowa, Sec. 123.36(3))

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

- a. Cities without Sunday sales privileges \$600.00
- b. Cities with Sunday sales privileges \$720.00

(Code of Iowa, Sec. 123.36(4, 6))

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

(Code of Iowa, Sec.123.36 (9))

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

(Code of Iowa, Sec. 123.34(1))

2.15 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the division for such further action as is provided by law.

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

2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.

(Code of Iowa, Sec. 123.34(1))

2.17 REFUNDS. Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

1. BEFORE THREE MONTH PERIOD. If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
2. SIX MONTH PERIOD. If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee.
3. SIX - NINE MONTH PERIOD. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
4. AFTER NINE MONTH PERIOD. No refund shall be made, however, for a liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
5. SUNDAY SALES. No refund will be given on the Sunday Sales portion of a license or permit fee.

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6. **COMPLAINT FILED.** No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging the person with a violation of this chapter or provisions of the Iowa beer and liquor control act.
 7. **HEARING ON COMPLAINT.** If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his or her license or permit is revoked or suspended upon such hearing he or she shall not be eligible for the refund of any portion of his license or permit fee.
 8. **SEASONAL LICENSES OR PERMITS.** No refund shall be made for seasonal licenses or permits.
(Code of Iowa, Sec. 123.38)
- 2.18 **TRANSFERS.** The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of (\$15.00 or \$25.00).
(Code of Iowa, Sec. 123.38)
- 2.19 **PROHIBITED SALES AND ACTS.** No person or club holding a liquor license or beer or wine permit nor his agents or employees shall do any of the following:
1. **INTOXICATED PERSONS.** Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.
(Code of Iowa, Sec. 123.49(1))
 2. **HOURS OF OPERATION.** Sell or dispense any alcoholic beverage 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 liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.
(Code of Iowa, Sec. 123.49(2b))
 3. **CREDIT SALES.** Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.

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4. EMPLOYMENT OF MINORS. Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
(Code of Iowa, Sec. 123.49(2f))
5. SELLING TO MINORS. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.
6. MIXING OF ALCOHOLIC BEVERAGE. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.
(Code of Iowa, Sec. 123.49(2i))
7. SOLICITING AND DISORDERLY CONDUCT. Knowingly permit any gambling, except in accordance with Code of Iowa Chapter 99B, 99D, 99F, or 99G, or knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49(2a))
8. ADVERTISEMENT FOR ALCOHOLIC LIQUOR, WINE, OR BEET BEER BRAND SIGNS PROHIBITED. Permit any signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This section does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.
(Code of Iowa, Sec. 123.51)
9. PUBLIC INDECENT EXPOSURE PROHIBITED. Allow or permit any of the following:
(Code of Iowa, Sec. 728.5)
 - A. The actual or simulated public performance of any sex act upon or in such licensed premises.
 - B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.
 - C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

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- D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.
- E. The displaying of moving pictures, films, or the pubic hair, anus or genitals upon or in such licensed premises.
- F. The advertising that any activity prohibited by this subsection or state law is allowed or permitted in such licensed premises.
- G. Provided that the provisions of this subsection shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

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

(Code of Iowa, Sec. 123.39)

1. **MISREPRESENTATION.** Misrepresentation of any material fact in the application for such license or permit.
(Code of Iowa, Sec. 123.39(1))
2. **VIOLATIONS.** Violations of any of the provisions of the Iowa beer and liquor control act.
(Code of Iowa, Sec. 123.39(2))
3. **CHANGE IN OWNERSHIP.** Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.
(Code of Iowa, Sec. 123.39(3))
4. **ORIGINAL DISQUALIFICATIONS.** Any event which would have resulted in disqualification from receiving such license or permit when originally issued.
(Code of Iowa, Sec. 123.39(4))
5. **SALE OR TRANSFER.** Any sale, hypothecation or transfer of such license or permit.
(Code of Iowa, Sec. 123.39(5))
6. **PAYMENT OF TAXES.** The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.
(Code of Iowa, Sec. 123.39(6))

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7. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.19 shall, subject to section 2.21, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division
(Code of Iowa, Sec. 123.50(2))

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

1. If any licensee, beer or wine permittee, or employee of such licensee or permittee is convicted of a violation of section 2.19 of this Article or a retail beer permittee is convicted of a violation of section 2.19 of this Article, except section 2.19(8) "Brand Alcohol Signs Prohibited" the City shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:

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

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

- b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).

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

- c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).

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

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

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

- e. For purposes of this subsection:

- (1) The date of any violation shall be used in determining the period between violations.

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- (2) Suspension shall be limited to the specific license or permit for the premises found in violation.
 - (3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.
(Code of Iowa, Sec. 123.50(3e))
 - (4) In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars (\$5,000) upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of Code of Iowa Section, 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.
2. The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.19, except section 2.19(8) "Brand Alcohol Signs Prohibited", shall, subject to section 2.21, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.
- 2.22 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.
- 2.23 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A city may appeal a decision of the hearing board as provided by statute.
(Code of Iowa, Sec. 123.32 (7 & 8))
- 2.24 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a

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person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one year.

(Code of Iowa, Sec. 123.40)

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

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

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2.26 GAMBLING, SOLICITATION, DISORDERLY CONDUCT, USE OF CONTAINERS. If any liquor control licensee is convicted of any violation of Code of Iowa, Sec. 123.49(2)(a), (d) or (e), or any wine or beer permittee is convicted of a violation of subsection (2), paragraph "A" of said section, the liquor control license or wine or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the division.

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

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CHAPTER 2: CIGARETTE PERMITS

ARTICLE 3 - GENERAL PROVISIONS

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

1. "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" shall mean any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.
(Code of Iowa, Sec. 453A.1(4))
3. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes, cigars, alternative nicotine products, or vapor products irrespective of quantity or amount or the number of sales.
(Code of Iowa, Sec. 453A.1(22))
4. "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the State of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.
(Code of Iowa, Sec. 98.1(20))
5. "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.
(Code of Iowa, Sec. 453A.1(24))
6. "Tobacco Products" means the following: cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in pipe or otherwise, or both chewing and smoking, but does not mean cigarettes.

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(Code of Iowa, Sec. 453A.1(27))

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

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

- 3.02 PERMIT REQUIRED. No retailer shall sell, distribute, or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(Code of Iowa, Sec. 453A.1 (1 & 10))

- 3.03 PERMIT REQUIRED FOR TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS. It is unlawful for any person to engage in the business of a retailer of tobacco product, alternative nicotine products, or vapor products at any place of business without first having received a permit as a tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer. A permit shall be obtained for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

- 3.04 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3.04 shall be filed with the clerk. Renewal applications shall be filed at least 5 days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and special council meeting is called to act on the application the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13(5&9))

- 3.05 DISPLAY. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit

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the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.

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

3.06 FEES. The fee for issuing or renewing a cigarette permit shall be as follows:
(Code of Iowa, Sec. 453A.13(3))

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

3.07 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

Upon proper application, approval by Council and payment of the required fee, a permit shall be issued to the applicant. Each permit issued shall clearly describe the place of business for which it is issued.

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

3.08 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes or her place of business, the council, if it decides to issue a new permit to or her, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

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

3.10 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city except during April, May, or June, as follows:
(Code of Iowa, Sec. 453A.13(4))

1.	Permits surrendered during: (For cities under 15,000 population)	Amount of refund:
	July, August, or September	\$56.25
	October, November, or December	\$37.50
	January, February, or March	\$18.75

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- 3.11 REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

- 3.12 PERSONS UNDER THE LEGAL AGE. No person shall sell, give or otherwise supply 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.

(Code of Iowa, Sec. 453A.2 & 453A.36(6))

a. CIGARETTES, TOBACCO, ALTERNATIVE NICOTINE OR VAPOR PRODUCTS.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen years of age.
2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.
3. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under eighteen years of age does not constitute a violation under Chapter 453A.2, Code of Iowa if the individual under eighteen years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the individual's employment and the individual is employed by a person who holds a valid permit under Chapter 453A, Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products.

A person who violates this section is guilty of a misdemeanor and is subject to penalties of Iowa Code, Chapter 453A.3.

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

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- 3.13 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violates the provisions of 3.12 of this Chapter, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:
- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.
 - b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
 - c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
 - d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
 - e. For a fifth violation with a period of four (4) 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))

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ARTICLE 4 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

4.01 PURPOSE. The purpose of this article is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

(Easterly v. Inc. Town of Irwin, 99 Iowa 694,
68 N.W. 919 (1896) and Code of Iowa, Sec. 364.1)

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

1. "Peddler" shall mean any person carrying goods or merchandise from house-to-house or upon the public street.
2. "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" shall mean any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer shall not exempt any person, firm or corporation from being considered a transient merchant.

4.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as herein provided shall be in violation of this ordinance.

4.04 RELIGIOUS AND CHARITABLE ORGANIZATIONS EXEMPT. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Section 6.05 - 6.13 of this ordinance. All such organizations shall be required to submit in writing to the city clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor for his or her efforts and the amount thereof. If the city clerk shall find that the organization is a bona fide charity or religious organization the clerk shall issue, free of charge, a license containing the above information to the applicant. The following are excluded from the application of this article.

(State of Iowa v. Garbroski, 111 Iowa 496, 82
N.W. 959 (1900))

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1. Newspapers. News boys and girls.
 2. Club Members. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
 3. Farmers. Farmers who offer for sale products of their own raising.
 4. Students. Students representing the South O'Brien Community School District and Zion St. John Lutheran School conducting projects sponsored by organizations recognized by the schools.
 5. Milk Delivery. Milk Delivery. Milk delivery men who only incidentally solicit additional business or make special sales.
 6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.
- 4.05 APPLICATION. An application in writing shall be filed with the city clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, right thumb print, and, unless a solicitor, be accompanied by a certificate that the applicant is in good health and free from contagious diseases, signed by a local physician. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. A fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.
- 4.06 LICENSE ISSUED. If the clerk finds the application is completed in conformance with Section 4.05 of this article, the facts stated therein are found to be correct, the license fee paid and surety bond posted, a license shall be issued immediately.
- 4.07 FEES. Every licensee shall pay the following fee before a license shall be issued:
1. PEDDLERS:
 - a. For one day or any part thereof \$5.00.
 - b. For more than one day up to one week \$10.00.
 - c. For one week \$10.00.
 - d. For up to six (6) months \$20.00.
 - e. For one year or major part thereof \$25.00.
 2. SOLICITORS:
 - a. In addition to the investigating fee for each person actually soliciting (principal or agent), a fee for the principal solicitor of \$10.00 per year shall be charged.

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- 4.08 DISPLAY. Each solicitor or peddler shall at all times while doing business in this city keep in his or her possession the license provided for in this article, and shall, upon the request of prospective customers, exhibit the license as evidence that the person has complied with all requirements of this chapter. Each transient merchant shall display publicly his or her license in his or her place of business.
- 4.09 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.
- 4.10 REBATES. On surrender of any license before the expiration of the full period for which it was issued, the licensee may apply for a rebate of the fee from the clerk. Determination of the amount of the rebate shall be made by deducting from the fee paid the amount payable when computed on a monthly, weekly and daily basis from the first day the license was issued. The balance, if any, shall be refunded.
- 4.11 REVOCAION. The city council, after notice and hearing, may revoke any license issued under this chapter where the licensee in the application for the license or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this chapter or has otherwise conducted his or her business in an unlawful manner, or the licensee has conducted his or her business in such a manner as to endanger the public welfare, safety, order or morals.
- 4.12 EXPIRATION. All licenses granted under this chapter shall expire at 6:00 p.m. of the last day for which the license is issued.
- 4.13 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the state law, Chapter 555A, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to which the person sells a product or service and, comply with the other requirements of the law.
- 4.14 NOTICE. The license holder shall be served with written notice containing particulars of the complaints against him, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
- 4.15 HEARING. The clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee or his or her authorized representative, fail to appear without good cause, the clerk may proceed to a determination of the complaint.
- 4.16 RECORD AND DETERMINATION. The clerk shall make and record findings of fact and conclusion of law, and shall revoke only when, upon review of the entire record, the clerk finds clear and convincing evidence of substantial violation of this article or state law.

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4.17 APPEAL. If the clerk revokes or refuses to issue a license, the clerk shall make a part of the record his or her reasons therefore. The licensee or the applicant shall have a right to a hearing before the council at its next regular meeting. The council may reverse, modify or affirm the decision of the clerk by a majority vote of the council members present, and the clerk shall carry out the decision of the council.

(Constitution of Iowa, Art. I, Sec. 9)

4.18 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this article for a period of one year from the date of revocation.

4.19 HOURS OF OPERATION. All peddlers, transient merchants and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight (8:00) a.m. and eight (8:00) p.m.

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TITLE V - BUSINESS AND OCCUPATION REGULATIONS

CHAPTER 3: LICENSING

ARTICLE 5 - HOUSE MOVERS

- 5.01 PURPOSE. The purpose of this article is to protect and preserve the public safety and well-being by licensing and regulating house and building movers.
(Code of Iowa, Sec. 364.1 and 364.12(2))
- 5.02 HOUSE MOVER DEFINED. A "house mover" shall mean any person who undertakes to move a building or similar structure upon, over or across the public streets, alleys, walks or property using skids, jacks, dollies or any method other than upon a properly licensed motor vehicle.
- 5.03 PERMIT REQUIRED. It shall be 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.
- 5.04 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 mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.
- 5.05 BOND REQUIRED. The applicant shall post with the clerk a penal bond in the sum of one thousand (\$1,000) dollars in cash or bond, issued by a surety company authorized to issue such bonds in the State of Iowa. The bond shall guarantee the permittee's payment for any damage done to the city or to public property, and payment of all costs incurred by the city in the course of moving the building or structure.
- 5.06 INSURANCE REQUIRED. Each applicant shall also have filed 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 his or her agents and employees for the following minimum amounts:
1. Bodily Injury - \$100,000.00 per person; \$300,000.00 per accident.
 2. Property Damage - \$50,000.00 per accident.

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- 5.07 PERMIT FEE. A permit fee of ten (10) dollars 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.
- 5.08 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.
- 5.09 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 flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.
- 5.10 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.
- 5.11 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 5.10 of this article the city is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on his or her bond.
- 5.12 PROTECT PAVEMENT. It shall be 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 shall be 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 engineer or mayor as to such weight shall be final.
- 5.13 ELECTRIC WIRES. The holder of any permit to move a building shall see that all telephone, telegraph and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same. The holder of the permit for moving a building shall give twenty-four (24) hour's notice to the owner of any telephone, telegraph or electric wires to remove such wires and the owner of such wires may either remove or direct the removal and replacing of such wires, and the holder of the permit shall pay the reasonable costs thereof.

TITLE V - BUSINESS AND OCCUPATION REGULATIONS

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TITLE VI - BUILDING AND LAND USE REGULATIONS

TITLE VI - BUILDING AND LAND USE REGULATIONS

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 1: BUILDING AND LAND USE REGULATIONS

ARTICLE 1 - BUILDING AND LAND USE REGULATIONS

- 1.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erection, reconstruction, altering and repairing of buildings of all kinds, as well as the use and occupancy of such buildings to promote the health, morals, safety and general welfare in the City.
- 1.02 BUILDING OFFICIAL. The clerk shall be the building official and be responsible for the administration and enforcement of this chapter.
- 1.03 PERMIT REQUIRED. No building or other structure shall be erected, altered, repaired, used or occupied within the City without first receiving a permit therefore.
- 1.04 APPLICATION. Application shall be made in writing, filed with the building official 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 building official 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 as is to be demolished and of all existing buildings.
- 1.05 FEES. A fee of Two Dollars (\$2.00) shall accompany the application.
- 1.06 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.

TITLE VI - BUILDING AND LAND USE REGULATIONS

- 1.07 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the date of adoption of the Code of Ordinances of Paullina, Iowa, provided, however, construction under such permit or approval shall have been started within six (6) months and the ground story framework, including structural parts of the second floor, shall have been completed within one (1) year and the entire building completed within two (2) years after the date of adoption of said City Code.
- 1.08 APPLICATION APPROVED. It shall be the duty of the building official to examine applications for permits within a reasonable time after filing. If, after examination, the building official 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 building official shall approve such application and issue a permit therefore.
- 1.09 APPLICATION DENIED - APPEAL. If the building official denies an application for permit, the reasons for such denial shall be stated and the applicant notified of such denial and of the applicant's his right to appeal to the council. The council, upon appeal, may affirm, modify or reverse the determination of the building official provided, however, no application shall be approved and permit issued which would result in an abrogation of the intent and purpose of this article.
- 1.10 RESTRICTIONS. No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, repair, use or occupancy shall not cause or be the source of the following:
(Code of Iowa, Sec. 414.24)
1. Noise. Any undue noise.
 2. Electrical Interference. Any undue radio or television interference.
 3. Odors. Any offensive odors.
 4. Refuse. Any offensive or unsightly refuse.
 5. Smoke. Any offensive or undue smoke.
 6. Fire Hazard. Any fire hazard.
 7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
 8. Congestion. Any undue gathering, congregating, parking of cars, or undue congestion of people or traffic.

TITLE VI - BUILDING AND LAND USE REGULATIONS

9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.
- 1.11 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 shall be 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 shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.
- 1.12 REVOCAION. The building official 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.
- 1.13 PERMIT VOID. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect.
- 1.14 CERTIFICATE OF OCCUPANCY. No building shall be occupied or the use of a parcel of land be changed before a certificate of occupancy has been issued. A certificate of occupancy shall be applied for coincident with the application for a building permit and said certificate shall be issued within three (3) days after the request for same shall have been made in writing to the building official after the erection or alteration of a building or change in the use of a parcel of land shall have been completed, in conformity with the provisions of these regulations. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the building official for a period not exceeding one year, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the tenants relating to the use or occupancy of these premises or any other matter covered by these regulations and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.
- 1.15 CONTENT OF CERTIFICATE OF OCCUPANCY. A certificate of occupancy shall state that the building or proposed use of building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the building official and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for a certificate of occupancy.

TITLE VI - BUILDING AND LAND USE REGULATIONS

- 1.16 RESTRICTED RESIDENCE DISTRICT ESTABLISHED. The following area is hereby defined and established as a restricted district:

All that area lying within the corporate limits of the City except the following described area:
(Code of Iowa, Sec. 414.24)

All property lying between Commerce Street on the North, the City corporation limits on the West, Broadway Street on the South as a line would be extended along the North side of Broadway Street to the western corporate limits and on the East to Maple Street and then North to Commerce Street.

Commencing at the Northwest Corner of Block 1, of Harker & Greene's Addition, thence North to the South Line of Commerce Street extended Eastwardly, thence 300' East, thence South to the Northeast corner of Lot 2 of said addition, thence West to the point of beginning except a tract of land identified as Parcel C as shown on Plat recorded in Plat Book 2 on page 841.

The North Sixty-Seven (67) Feet of Lots Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), and Twelve (12) in Block Seven (7), Original Town of Paullina.

Lots One (1) through Sixteen (16) and Lots Twenty-Two (22) through Twenty-Seven (27), Block Eight (8), Original Town of Paullina.

All of Block Nine (9).

Lots One and Two (1 & 2) and North Ten Feet (10') of Lot Three (3), in Block Twelve (12), Original Town of Paullina.

North 250' in width of the West 165' in width of Block Twenty (20) in the Town of Paullina, as shown by the Plat of subdivision entitled Blocks 16 to 24 inclusive.

East Seventy-Five (75) feet, of the South One Hundred Five (105) Feet of Lot Four (4), Block Six (6), Metcalf's First Addition to the City of Paullina, Iowa.

Lot Eleven (11), in Block Eighteen (18) of the Replat of Outlots 1 to 12, to the Town of Paullina, O'Brien County, Iowa, as shown by the recorded Plat thereof.

Lots Seven, Eight and Nine (7, 8 & 9) of Block Seventeen (17), Original Town of Paullina.

The South 10 Feet in width of the North 200 Feet in width of the West 113 1/2 Feet in width of Block Twenty-Four (24) of the Town of Paullina, in O'Brien County and State of Iowa, as shown by the Plat of the subdivision entitled Blocks 16 to 24 inclusive.

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Lot Four (4) and the East Fifty (50) Feet of Lot Three (3), in Block One (1), of Metcalf's First Addition to Paullina in O'Brien County, State of Iowa, as shown by the recorded Plat thereof.

The West 100 feet of Lot Three, except the North 80 feet thereof, in Block One of Metcalf's First Addition to the City of Paullina.

(Ordinance 222, approved on June 1, 1998)

The North 200 Feet in width of the West 113 1/2 Feet in width of Block Twenty-Four (24) of the Town of Paullina, in O'Brien County and State of Iowa, as shown by the Plat of the subdivision entitled Blocks 16 to 24 inclusive.

(Ordinance 229, approved on April 5, 1999)

The Restricted Residence District describe in this Article is hereby amended by deleting from the exceptions listed therein the following described area:

The South 10 Feet in width of the North 200 Feet in width of the West 113 1/2 Feet in width of Block Twenty-Four (24) of the Town of Paullina, In O'Brien County and State of Iowa, as shown by the Plat of the subdivision entitled Blocks 16 to 24 inclusive.

(Ordinance 229, approved on April 5, 1999)

Tract in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Three (3) in Township Ninety-Four (94) North of Range Forty-One (41) West of the Fifth Principal Meridian, in O'Brien County and State of Iowa, described as follows, to-wit: Commencing at the Southwest Corner of Section 3 aforesaid and running thence due North a distance of 967.1 feet to a point of beginning; thence continuing due North a distance of 352.0 feet; thence North 87 degrees, 53' East a distance of 484.0 feet; thence due South a distance of 352.0 feet; thence South 87 degrees, 53' West a distance of 484.0 feet to the point of beginning, containing 3.908 acres, more or less, subject to established highway.

The Restricted Residence District described in this Article is hereby amended by removing the following described property from the Restricted Residence District:

The East 140 feet of the North 150 feet of Block Twenty-one (21) and the South 16 feet of the North 166 feet of the East 140 feet of Block Twenty-one (21) in the Town of Paullina, in O'Brien County and State of Iowa, as shown by the plat of the subdivision entitled Blocks 16 to 24 Inclusive, as recorded in Book 10 of Town Lot Deed Records on Page 350.

(Editor's Note: Ordinance 2, was adopted by Council April 7, 2003 and amended Section 1.16 Restricted Residence District Established by adding the last 2 paragraphs of this Section.

- 1.17 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than twenty-five (25) feet, except as follows:

(Code of Iowa, Sec. 414.24)

TITLE VI - BUILDING AND LAND USE REGULATIONS

1. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two (2) sides, or
 2. **Adjacent to Existing Building.** Where a biding is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point twenty-five (25) feet back from the front lot line measured at the corner of the lot which the proposed building is to be erected.
 3. **Double Frontage.** Where lots have a double frontage, the front yard as required herein shall be provided on both streets.
- 1.18 **SIDE YARD REQUIREMENTS.** Within the restricted residence district no building shall be erected closer than seven (7) feet to either side lot line.
(Code of Iowa, Sec. 414.24)
- 1.19 **REAR YARD REQUIREMENTS.** Within the restricted residence district there shall be a rear yard provided for each building of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.
(Code of Iowa, Sec. 414.24)
- 1.20 **DETACHED GARAGE.** Within the restricted residence district no detached garage or other accessory building not attached to the principal building shall be erected closer than seven (7) feet to any side or rear yard line.
(Code of Iowa, 414.24)
- 1.21 **EXISTING LOTS.** No yard or lot existing as of the date of adoption of this code of ordinances shall be reduced in dimension or area below the minimum requirements set forth herein.
- 1.22 **PROHIBITED USE.** No building or other structure, except residences, school houses, churches and other similar structures, shall be erected, altered, repaired, used or occupied within the restricted residence district as defined herein without first receiving from the council a special use permit therefore. No such special use permit shall be issued without the affirmative vote of three-fourths (3/4) of the full council. A mobile home park shall be considered a special use under this section.
(Code of Iowa, 414.24)
- 1.23 **EXCEPTIONS.** The provisions of the preceding section shall have no application to any business, store, shop or factory existing and in operation in a restricted residence district on the date of adoption of the City Code of Paullina, Iowa, except in the matter of reconstruction, repair, alteration or change in use of the structure.

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- 1.24 VARIANCES GRANTED. The Paullina City Council has the authority to grant a variance to the requirements within this Article. Variances may be granted for setback and yard requirements when such variances will not be prejudicial to the rights of other property owners and will not upset or disturb the nature and character of the neighborhood in which the variance is granted.
- 1.25 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter, the clerk shall certify such amendment to the county recorder.
- (Code of Iowa, Sec. 380.11)
- 1.26 ABATEMENT OF VIOLATION. Any building or structure erected, altered, repaired, used or occupied in violation of this chapter shall be determined a nuisance, and the same may be abated by the City or by any property owner in the manner provided for the abatement of nuisances.

TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 2: BUILDING CODE

ARTICLE 2 - DANGEROUS BUILDINGS

2.01 BUILDING OFFICIAL. The building official shall be responsible for the enforcement of this ordinance. The council may either appoint a person to be the building official or designate some other officer to carry out the duties of the building official.

2.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this ordinance, the city building code or any other ordinance, are, for the purpose of this ordinance, 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 sections 3, 4, 5, 6 and 7 below.

"Unsafe building" shall mean any structure or mobile home meeting any or all the following criteria:

1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 20 lb. per sq. ft.
3. Whenever any portion thereof has wrecked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
5. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
6. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

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7. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
 8. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 9. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
 10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the State Fire Marshall or city fire chief to be a fire hazard.
 11. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
 12. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- 2.03 NOTICE TO OWNER. The building official 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 ordinance, the building official shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the building official. 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 building official.

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Such notice shall be served in the manner provided for service of original notice of the Iowa Rules of Civil Procedure upon the owner of record, if the owner shall be found within the city limits. If the owner is not found within the city limits, such service may be made upon said owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the building official shall begin as of the date he or she receives such notice. However, such notice shall, except in cases of immediate danger, state that the person notified may request a hearing before the council concerning the determination that the building be repaired, removed or demolished, and such request shall be made at least 3 days before the deadline set in the notice if less than 15 days was set, and at least 10 days if over 21 days was set.

- 2.04 POSTING OF SIGNS. The building official shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. Building Department, City of Paullina." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed except for the purposes of making the required repairs or of demolishing the building.
- 2.05 RIGHT TO DEMOLISH. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the city council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the building official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council.
- 2.06 COSTS. Costs incurred under Section 1.06 above 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 collected in the manner provided for taxes in Section 364.12(3)(h), Code of Iowa.
- 2.07 CONDUCT OF HEARING. If requested, the council shall conduct a hearing in accordance with the following:
1. Nature. The owner shall be served with written notice specifying the date, time and place of hearing.
 2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
 3. Determination. The council shall make and record findings of fact and may issue such order as it deems appropriate.

TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 2: BUILDING CODE

ARTICLE 3 - PUBLIC BUILDINGS - TOILET FACILITIES

3.01 MINIMUM TOILET FACILITY STANDARD.

1. Places of assembly for public use including but not limited to theaters, auditoriums, and convention halls, constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the Uniform Plumbing Code.
2. Restaurants, pubs and lounges constructed on or after January 1, 1991 shall conform to the standards for minimum plumbing facilities as provided in the Uniform Plumbing Code.
3. All toilets installed pursuant to this section shall be water efficient toilets which use three (3) gallons or less of water per flush.
(Code of Iowa, Sec. 104B.1)

TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 2: BUILDING CODE

ARTICLE 4 - MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES

- 4.01 STRUCTURES. All structures intended for residential occupancy placed, erected, assembled or constructed in the City after the effective date of this Section shall meet and comply with the following minimum requirements.
- 4.02. STRUCTURE SIZE: Each such structure shall have a "main body" with a minimum exterior dimension of at least sixteen feet (16') measured from outside of the exterior walls.
- 4.03 MINIMUM FLOOR AREA: Each such structure shall have a minimum floor area of not less than eight hundred (800) square feet. [In order to comply with the provisions of the foregoing section 3.02 and this subsection 4.03, the minimum exterior dimensions of a residential structure shall not be less than sixteen feet by fifty feet (16' x 50')]. A structure may include porches, sunrooms, garages and "wings" of lesser dimensions and area, so long as the "main body" meets the minimum requirements.
- 4.04 FOUNDATION: All residential structures shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the manufactured home structure. For such a manufactured home, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site.

Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line. The structure must be permanently attached to the foundation.

- 4.05 EXTERIOR WALL AND ROOF MATERIAL:
1. Exterior wall covering shall be wood or masonry finish, vertical or horizontal grooved siding or lap siding, or the appearance thereof.
 2. Roofing material shall be shingles (asphalt, fiberglass or wood), slate, ceramic, or metal of a type customarily used for residential roofing material, such as "standing seam" or embossed or textured metal.
 3. Smooth, unfinished or corrugated metal or fiberglass shall not be used for exterior wall or roof covering.
 4. Soffits, eaves, window and door trim (not exceeding 18 inches in width), roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl or wood or unfinished metal, such as copper, customarily used for residential structure trim.

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- 4.06 CEILING HEIGHT: A minimum finished ceiling height of not less than seven and one-half (7 1/2') feet.
- 4.07. ENTRANCE AND EXIT DOORS: Not less than two (2) functional entrance and exit doors.
- 4.08. WHEELS, AXLES OR TOWING DEVICE. No residence structure shall have attached wheels, axles or a towing device.
- 4.09 EXEMPTION. The provisions of this Article 3 shall not apply to "mobile" or "manufactured" homes placed in a mobile home park or a mobile home subdivision in compliance with the zoning or subdivision ordinances of the City of Paullina.

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 3: MANUFACTURED AND MOBILE HOMES

ARTICLE 5 – GENERAL PROVISIONS

5.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community .
3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

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5.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer's Stock.** Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

5.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 4: FIRE LIMITS

ARTICLE 6 - GENERAL PROVISIONS

- 6.01 FIRE LIMITS ESTABLISHED. The fire limits (Fire Zone No. 1) are established to include the following property:

All blocks 2, 3, 8 and 9, the East One Hundred Thirty (130) feet of Block 4; Lots 7, 8, 9, 10, 11, 12, in Block 7; Lots 1, 2, 3, 4 and 5 of Block 1.

(Code of Iowa, Sec. 364.16)

- 6.02 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the fire limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the mayor, who if the proposal is in accordance with the provisions of the building code, shall issue a permit for the proposed work.
- 6.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the fire limits, unless constructed in strict compliance with the provisions of the city building code for Fire Zone No. 1.
- 6.04 WALLS AND ROOF. The building or structure shall be enclosed on all sides with walls constructed wholly of stone, brick, terra-cotta, hollow building tile, concrete or other fire proof material and the roof, top and sides of all roof structures, including dormer windows and cornices, shall be covered with incombustible materials, such as metal, slate, tile composition shingles or roofing approved by the National Board of Fire Underwriters as Fire Resistive. Wooden stud walls covered with metal or veneered with brick shall not be constructed as fireproof or in compliance with the provisions of this section.
- 6.05 EXTERIOR AND DIVISION WALLS. All exterior or division walls of buildings hereafter erected, shall be of sufficient thickness to support the load to be carried. All walls, shall be not less than twelve (12) inches thick in the upper two (2) stories or upper thirty (30) feet, increasing four (4) inches in thickness for each two (2) stories or fraction thereof below. Such exterior or division walls, when constructed of other permissible materials, such as concrete tile or hollow tile, shall be at least four (4) inches thicker than solid brick or reinforced concrete walls. All exterior or division walls shall extend at least fifteen (15) inches above the roof.
- 6.06 BEAMS IN WALLS. The ends of all floor, ceiling, or roof beams, entering a party or fire wall from opposite sides, shall be separated by at least four (4) inches of solid masonry. Such separation may be obtained by corbelling the wall, or staggering the beams, but no wall shall

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be corbelled more than two (2) inches for this purpose. The ends of all wooden beams that enter walls shall be cut to a bevel to make them self-releasing.

- 6.07 ACCESSORY BUILDINGS. The mayor, upon vote of a majority of the council in favor thereof, may issue a permit to build a coal house and other out-buildings of other materials than those specified in this chapter, not exceeding twelve (12) feet in height and one hundred fifty (150) square feet in area, to be placed not less than twenty (20) feet from any other building or erection within the Fire Limits, and with the use of which no fire is anticipated. To obtain such permit, written application shall be made to the mayor and the council before any work is done, specifying the location, size and contemplated use of the proposed erection; and if a majority of the council vote is favor of granting such permit and the mayor approves of the same, the mayor shall issue a permit in writing.
- 6.08 SPECIAL PERMIT. The council may, by four-fifths vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard, according to the rules of the Iowa Insurance Service Bureau.
- 6.09 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.
- 6.10 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, to the extent of fifty percent (50%) of its value, shall not be repaired or rebuilt but shall be torn down or removed. When the damages are less than fifty percent (50%) of its value, the building shall not be repaired so as to be higher in value than it was before the damages were sustained, except upon approval by four-fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.
- 6.11 REMOVAL OF BUILDINGS. Any person, firm or corporation, who erects or moves any building in the fire limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the time of the service of such notice, the mayor shall cause the same to be removed or taken down. The mayor shall report an itemized bill of the expense to the clerk, and the same shall be charged to the person, firm or corporation owning such building. The clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the clerk, to the county treasurer, as a special tax against the property and collected the same as other taxes.
- 5.12 BOARD OF APPRAISEMENT. In case of a question as to the amount or extent of damage by fire or otherwise to any building, the damage shall be determined by a board of appraisement of three disinterested parties, owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor, and

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the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decision shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the fire limits about which there is a question shall be repaired or rebuilt until such finding has been filed with the clerk.

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 5: TREES

ARTICLE 7 - GENERAL PROVISIONS

- 7.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the city by regulating and providing for the planting, care and removal of trees.
- 7.02 DEFINITIONS. For use in this chapter, the following term is defined:
1. "Parking" means that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line, or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
 2. "Superintendent" shall mean the superintendent of utilities or such other person as may be designated by the council.
- 7.03 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:
1. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
 2. Spacing. Trees shall not be planted on the parking if it is less than nine (9) feet in width or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
 3. Prohibited Trees. No person shall hereinafter plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, boxelder, chinese elm or evergreen.
- 7.04 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on or overhanging the street trimmed to that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.
(Code of Iowa, Sec. 364.12 (2)(c) and 364.12(3)(g))
- 7.05 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on the abutting property owner requiring the owner to do so within five (5) days. If the property owner fails to trim the trees within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(2)(d) & (e) and 364.12(3)(g) & (h))

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7.06 TRIMMING TREES TO BE SUPERVISED. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

7.07 REMOVAL OF TREES. The superintendent shall remove, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. The superintendent shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, Sec. 364.12(2)(c) & 372.13(4))

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 5: TREES

ARTICLE 8 - DISEASE & DEAD TREE CONTROL

- 8.01 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within thirty (30) days. Notice shall either be given by personal service or by certified mail with return receipt barring the signature of the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax. Code of Iowa, Chapter 364.12(3)(h) allows the City in an emergency to perform any action which may be required to abate the emergency without prior notice, and assess the costs as provided in Chapter 364.12, after notice to the property owner and hearing.
- 8.02 DUTY TO REMOVE. No person, firm or corporation shall permit any diseased tree, dead wood to remain on the premises owned, controlled or occupied by the person within the City.
(Code of Iowa, Sec, 364.12(3b))
- 8.03 INSPECTION. The City shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Section 4.01 of this Article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to constitute a public nuisance, a hazard to person or property, or harbors insects, other pests, or disease.
- 8.04 REMOVAL FROM CITY PROPERTY. If the City, upon inspection or examination, in person or by some qualified person acting for the City, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property within the City, and that the danger of other trees, shrubs, bushes, or woody vegetation within the City is imminent, the City shall immediately cause the tree, shrub, bush or woody vegetation to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease, or insect pests, or vectors known to carry such disease, insects, and/or fungus.
- 8.05 REMOVAL FROM PRIVATE PROPERTY. If the City upon inspection or examination, in person or by some qualified person acting for the City, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises, and that he danger to other trees within the City is imminent, he/she shall immediately notify by certified mail or personal delivery to the occupant or person in charge of such property, to correct such

TITLE VI - BUILDING AND LAND USE REGULATIONS

condition within thirty (30) days of said notification. If such owner, occupant or person in charge of said property fails to comply within thirty (30) days of receipt thereof, the Council may cause the nuisance to be removed and the cost assessed against the property for collection in the same manner as a property tax.

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

- 8.06 REASONABLE CERTAINTY. If the City is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected, diseased, or harboring insects or pests, a City representative is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 6: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 9 - ABANDONED VEHICLES

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

1. "Abandoned Vehicle" shall mean any of the following:
(Code of Iowa, Sec. 321.89(1a))
 - a. A motor vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates, or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - b. A motor vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - c. A motor vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
 - d. A motor vehicle that has been legally impounded by order of the police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned with the ten (10) 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.

However, a vehicle shall not be considered abandoned for a period of five (5) days if its owner or operator is unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.

2. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
(Code of Iowa 321.89(1b))

TITLE VI - BUILDING AND LAND USE REGULATIONS

3. "Police Authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

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

- 9.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody an abandoned on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private 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))

- 9.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to the disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaim period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (10) day reclaiming period.

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

TITLE VI - BUILDING AND LAND USE REGULATIONS

- 9.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 8.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mail notice in section 9.03.
(Code of Iowa, Sec. 321.89(3b))
- 9.05 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay three dollars (\$3.00) if claimed within five (5) days of impounding, plus two dollars (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the city, or upon payment of the towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages shall be established by resolution of the council.
(Code of Iowa, Sec. 321.89(3a))
- 9.06 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The city or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner or a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders a vehicle totally inoperable. The police authority shall give the applicant a certificate of authority in lieu of the certificate of title.
(Code of Iowa, Sec. 321.90(2e))
- 9.07 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State Law.
(Code of Iowa, Sec. 321.89(4))
- 9.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of the auction, cost of towing, preserving, storing and notification required, in accordance with state law. Any balance shall be held for the owner of the motor vehicle or entitled lien holder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs, the police authority shall apply for reimbursement from the Department of Transportation.
(Code of Iowa, Sec. 321.89(4))

TITLE VI - BUILDING AND LAND USE REGULATIONS

- 9.09 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 a motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.
(Code of Iowa, Sec. 321.90(3a))

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TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 6: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 10 - JUNKED VEHICLES AND MACHINERY

10.01 DEFINITIONS.

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

1. "Enclosed Structure" means any structure or portion thereof built for the enclosure of property, containing a roof and having exterior walls of the structure or portion thereof constructed in such a manner as to obscure from any street or adjacent property any contents thereof and being of a permanent nature.
2. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, 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.
3. "Junk vehicle" means any vehicle licensed or unlicensed and which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any vehicle not in safe condition or road ready for use on any roadways. Any motor vehicle which lacks an engine or transmission, or one or more wheels or other structural parts, or having one or more flat tires, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and

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safety.

- G. Uninsured. Any vehicle not insured and not having proof of financial liability coverage.
- H. Parked Vehicles. Any vehicle, trailer, and or machinery parked on any private or public property for an extended period of time, which allows weeds or grass to partially cover it.

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

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

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

10.03 JUNKED VEHICLES AND MACHINERY A NUISANCE. Storage within the corporate limits of a junked motor vehicle or junked machinery upon private property owned or controlled by the owner of the vehicle or machinery, unless excepted by Article 10.04, constitutes a threat to the health and safety of the citizens and is a nuisance and is unlawful. If any junked motor vehicle or junked machinery is stored upon private property in violation thereof, the owner or person in control of the property upon which it is stored shall be prima facie liable for said violation.

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

10.04 EXCEPTIONS. The provisions of this chapter shall not apply to a junked motor vehicle or junked machinery stored within:

- 1. A garage or other enclosed structure; or
- 2. An auto salvage yard or junk yard lawfully operated within the city; or
- 3. Stored on an operable and currently licensed trailer during the months of May through September; or
- 4. Held for storage or sale upon properly zoned property by a motor vehicle dealer, body shop or repair shop, vehicle towing company, or governmental agency.

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10.05 NOTICE TO ABATE. Upon discovery of any junked motor vehicle or junked machinery stored upon private property in violation of Section 10.03, the chief law enforcement officer or his/her designee is hereby authorized to abate such violations in accordance with the municipal infraction provisions of the City Code of Paullina and/or to initiate abatement procedures.

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

10.06 ABATEMENT BY IMPOUNDING. If the owner of a junked motor vehicle or junked machinery, or in the absence of any known or ascertainable owner, the owner of the property upon which it is stored, shall fail to remove or repair the motor vehicle in accordance with this chapter, the chief law enforcement officer or any other delegated law enforcement officer shall abate such nuisance by causing the motor vehicle to be towed to the municipal impounding lot or to any other place of safekeeping, and the cost of the towing and storage shall be charged to the owner of the motor vehicle or, in the absence of any known or ascertainable owner, to the owner of the property upon which it is stored.

10.07 DISPOSAL. All junked motor vehicles or junked machinery impounded by the law enforcement officer shall be sold to the highest bidder at a public auction, or shall be disposed of in a commercially reasonable manner, and in the event that public auction is used, the time and place shall be duly noted in a newspaper of general circulation within the City of Paullina, not less than seven (7) days before the auction. All revenue derived from the sale or other disposal of junked or obsolete motor vehicles or machinery shall accrue to the City of Paullina.

TITLE VI - BUILDING AND LAND USE REGULATIONS

CHAPTER 7: LEISURE TIME OPPORTUNITY

ARTICLE 11 - PARK REGULATIONS

- 11.01 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. 392.1)
- 11.02 PARKING. All vehicles shall be parked in designated parking areas.
- 11.03 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or drive any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the city.
- 11.04 FIRES. No fires shall be built, except in a place provided therefore, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.
- 10.05 LITTERING. No person shall place, deposit or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.
- 11.06 LIMITED LEASES. The city council may lease, under reasonable rates and requirements, a particular park or portion thereof may be leased under reasonable rates and requirements as set by the city council.
1. For a period not in excess of ten (10) days to charitable, fraternal and patriotic organizations for the conduct of celebrations, anniversaries and entertainment.
(Code of Iowa, Sec. 370.13 & Sec. 392.7)
 2. Professional Games. For such time or times, not to exceed six (6) consecutive months, for the purpose of permitting the playing of professional baseball or other professional games.
(Code of Iowa, 370.13 & Sec. 392.7)
- 11.07 RULES AND REGULATIONS. The city council shall have the power to make additional rules and regulations governing the use of any particular park or portion thereof of other facilities under its control. Such rules and regulations as may be adopted shall be posted in such park or facility or otherwise publicized in a manner to provide adequate notice to the public.
(Code of Iowa, Sec. 370.22 & 392.7)

TITLE VI - BUILDING AND LAND USE REGULATIONS

11.08 PENALTIES. Any person who violates a rule or regulation adopted by the city council commits a municipal infraction and may be subject to the penalties provided for in the Code of Ordinances.

(Code of Iowa, Sec. 392.1)

CHAPTER 8: FENCES

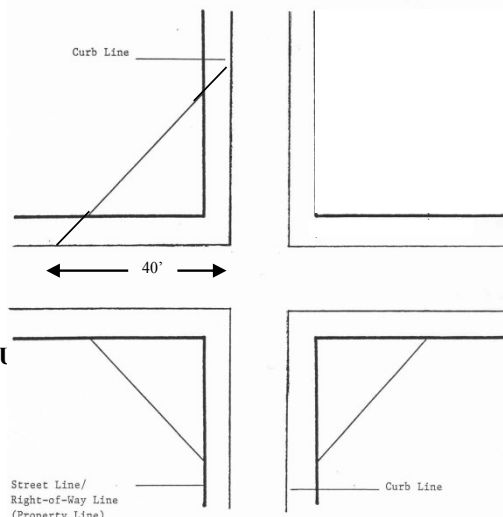
ARTICLE 12 – FENCE REGULATIONS

12.01 DEFINITIONS.

1. FENCE. Is any artificially constructed barrier of approved fencing material or combination of materials erected to enclose or screen areas of land. Fences shall not be classified as a structure but shall be deemed a separate and distinct use of the land so as to allow their placement on a portion of a lot in which a structure or accessory building may not be located.
2. HEDGE: A linear growth of woody plant(s) planted to form a barrier to enclose or screen areas of land.

12.02 FENCES AND HEDGES.

1. Fences and hedges shall not exceed more than four feet (4') in height or more than fifty percent (50%) solid in any required front yard, subject to further restrictions listed in subsection 1 of this section below. Fences less than four (4) feet in height may be located on any part of a lot, subject to subsection 1 of this section below.
2. Except as provided above in subsection 1, fences shall not exceed eight feet (8') in height in any required side or rear yards, subject to further restrictions herein. Fences in excess of eight feet (8') will be allowed in the cases of tennis courts, swimming pools, or recreational areas subject to further restrictions.
3. Fences are permitted to be constructed no closer than eighteen inches (18") from the property line. Perennial plantings (hedges, bushes and shrubs) shall not be planted closer than three feet (3') to any property line. Trees shall be located not less than six (6') feet from the property line. Except that fences, walls and perennial plantings may be placed up to the property line by written mutual agreement of adjoining property owners.
4. *Line of Site Visibility (at Intersections)*. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner that will obstruct vision between



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a height of two feet (2') and ten feet (10') above the ground within the triangular area formed, by connecting a point at the center of the curb radius with two points that are forty (40) feet from the center of the curb radius as measured along the curb. (*see diagram*)

5. *Utilities.* Nothing in this ordinance shall have the effect of prohibiting utility service lines.
6. No fences are allowed within the "sight triangle" in accordance with subsection 4 above. No fence shall obscure clear view of traffic at street intersections or driveways so as to create a safety hazard to pedestrians or vehicular traffic.
7. Determining the maximum height for fences and walls shall be made by measuring from the natural grade of the lot adjacent to the fence to the top of the finished fence structure.
8. In the case of retaining walls, the height requirements specified in Section 4 above shall apply only to that part of the retaining wall above the ground surface of the retained land.
9. Retaining walls constructed from concrete, stone or other natural or manufactured materials, if used for the purposes of terracing land, holding back failing natural slopes, or for changing the contour of the land for development purposes will not be subject to yard setback requirements. Retaining walls or other decorative walls used for the intent or purpose of landscaping and not structural use, will be treated the same as other above ground structures in which if the height of such wall is higher than 12" above the average grade of the adjoining ground on the applicant's property, such wall shall meet the required yard setback requirements.
10. *Allowed Materials:* Fences are to be constructed of customarily used materials such as chainlink, welded wire mesh, wrought iron, aluminum, wood, polyvinyl chloride (PVC) and other similar materials customarily used for urban residential 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 city council or its designee.
11. *Prohibited Materials:* The use of materials such as corrugated or sheet metal, poultry wire, woven wire, fiberglass, non-treated wood products, temporary construction fencing, snow fencing, livestock panels, agricultural fencing or similar materials not customarily used for urban residential fencing shall not be permitted as permanent fencing on any property.
12. *Temporary Fencing:* Temporary snow fence may be placed for snow control purposes during the period beginning October 15 and ending April 15 of any year. Snow fence so placed shall not create an enclosure. It shall be placed and used solely for snow control.

Temporary construction fences, barricades, railings, or other similar fences installed to

TITLE VI - BUILDING AND LAND USE REGULATIONS

provide temporary site security and/or safety in conjunction with construction or demolition are allowed during periods of construction or demolition. Any such temporary fences shall be removed upon completion of the construction or demolition work.

13. The City Council may approve other materials as presented. Fences should be constructed in an orderly and neat manner as to accent and compliment the natural landscape of the property. All fences shall be subject to a completed and approved building permit.
 14. Garden fences are exempt from fence regulations except that no garden fence shall create a traffic or pedestrian hazard, be no more than three feet (3') in height, or be located within the front yard or street side yard.
 15. Fences in side and rear yards shall have at least one (1) access point, to allow for access for public safety and utility purposes.
 16. Disputes between property owners concerning fences and/or plantings, trees, bushes, hedges or other natural or manufactured structures obstructing views, sunlight or air shall be considered a civil matter between private parties and shall be resolved in a court of law.
 17. All fences shall be subject to a completed and approved building/fence permit.
- 12.03 GOOD NEIGHBOR PROVISION. All fences and walls constructed in the City of Paullina from and after the effective date hereof shall either be of uniform style, construction and appearance from both sides, or the more finished, covered or faced side shall face outward. The city council or its designee is hereby granted the authority to determine which side of a fence, which does not provide uniform appearance from both sides, shall face outward.
- 12.04 BARBED WIRE AND ELECTRIC FENCE. It shall be unlawful for a person to use barbed wire or electric fence to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land. Underground electric fences for dogs are permitted.
- 12.05 PERMITS. Prior to the construction of any fence or hedge, application shall be made to the City Clerk and a permit obtained therefor.

Editor's Note Chapter 8 Fences, Article 12 – Fence Regulations was added at time of Code Update in 2016)

TITLE VII

TITLE VII - SOCIAL AND ECONOMIC WELL-BEING

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TITLE VII

CHAPTER 1: FRANCHISES

ARTICLE 1 - MUNICIPAL ELECTRIC UTILITY

- 1.01 PURPOSE. The purpose of this article is to provide for the operation of the municipally owned electric system.
- 1.02 POLICY DIRECTION. The mayor and council shall establish appropriate rules and regulations governing the operation and maintenance of the electric system.
- 1.03 SUPERINTENDENT. The council shall appoint a superintendent who shall be responsible for execution of policies governing the system as established by the council. If no appointment is made by the council, the city clerk shall act as the superintendent.
- 1.04 SERVICE RULES AND REGULATIONS. The rules and regulations for electric service are contained in the "Municipal Electric Utility of the City of Paullina Tariff," on file with the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the clerk. The rules and regulations contained therein shall apply to all users of the municipal electric system.
- 1.05 RATES. The rates for the electric service shall be as shown in the following table. The rates shall be applied to service starting on the first billing period after passage and publication as provided by law.

(Code of Iowa, Sec. 384.84)

RESIDENTIAL RATES

Customer Charge/Month	\$12.00
All KWH/Month	\$0.095/KWH

NON RESIDENTIAL/COMMERCIAL/MUNICIPAL RATES

Customer Charge/Month	\$22.00
Energy Charge 0-5,000 KWH	\$0.092
Over 5,000 KWH	\$0.078

(Ordinance 25 adopted August 4, 2008 amended the electric rates established in Section 1.05)

POWER COST ADJUSTMENT

If the power costs per month are higher than the recommended base of \$.034/KWH, a power cost adjustment will be applied on the bills for that month. The power cost adjustment is calculated by subtracting the recommended base of \$.034/KWH from the actual power cost/KWH in the month in which the power costs were higher than the recommended base. The recommended base will be subtracted from the actual power costs for the month and the difference will be the adder for that month. The adder will be multiplied by the KWH's used for that month on each bill. The dollar amount calculated by multiplying the adder by the kilowatts used will be added to each bill for that month.

(Ordinance 18 adopted July 3, 2006 established Power₃₀₃ Cost Adjustment subsection of Section 1.05)

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- 1.06 LATE PENALTY CHARGE. There will be a charge of \$1.50 per customer which will be issued as a penalty for late electric payments.

(Ordinance 14, adopted February 6, 2006 established Section 1.06)

- 1.07 DISCONNECTION POSTING FEE. If a utility customer's utility bill is not paid by the due date as indicated on the utility bill, the customer shall receive a written 12-day disconnection notice. If the customer has not paid the utility bill by the date specified on the written disconnection notice, the customer's premises shall be posted with a 24-hour disconnection notice. A \$25.00 disconnection notice posting fee shall be added to the amount due for the customer's delinquent utility bill. If the delinquent utility bill and disconnection notice posting fee are not paid, utility service will be disconnected. In order to restore utility service, the delinquent utility bill, the 24-hour disconnection notice posting fee of \$25.00, and a reconnect fee of \$25.00, plus Iowa sales tax, for each utility disconnected must be paid before services will be restored. A deposit may also be required.

(Editor's Note: Ordinance 14, adopted February 6, 2006 established Section 1.07)

TITLE VII

CHAPTER 1: FRANCHISES

ARTICLE 2 - MISSOURI BASIN POWER AGREEMENT

- 2.01 AGREEMENT ENTERED. The City of Paullina hereby enters into a certain agreement for membership in the Missouri Basin Municipal Electric Cooperative Association in the form presented to this meeting.
- 2.02 OFFICERS AUTHORITY. The mayor is hereby authorized and directed to execute such agreement for, on behalf of, and in the name of the City of Paullina, and the clerk is authorized to affix the seal thereto and attest to such agreement.

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TITLE VII

CHAPTER 1: FRANCHISES

ARTICLE 3 - NATURAL GAS FRANCHISE

Ordinance No. 31

An Ordinance granting Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware corporation, its lessees, successors and assigns, a natural gas franchise and the authority to construct, operate, maintain, and extend a natural gas distribution plant and system, and granting the right to use the streets, alleys, and other public places within the present or future corporate limits of the city of Paullina, Iowa

Be it ordained by the city council of the city of Paullina, Iowa, as follows:

FRANCHISE GRANTED

The city of Paullina, Iowa (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability 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 easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and all other apparatus and appliances necessary or convenient for 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 Grantor and in carrying on such business.

TERM

The rights and privileges granted by this Ordinance shall remain in effect for a period of twenty-five (25) years from the effective date thereof. Grantor shall have the right to review, and if appropriate, to terminate the franchise granted by this ordinance as set forth herein. The right to review and terminate the franchise may be exercised by Grantor on the following dates: At the end of the tenth (10th) year from the date of enactment of the ordinance or at the end of the twentieth (20th) year from the date of enactment of this ordinance. If Grantor elects to terminate the franchise, Grantor shall notify Grantee in writing at least one hundred and eighty (180) days before the proposed effective date of termination (i.e. end of 10th or 20th year). If Grantor does not notify Grantee of its desire to terminate the franchise, then the term will continue thereafter until the next period to terminate the franchise.

FRANCHISE FEES OR TAXES

Grantor may, during the term of this franchise, in its discretion, in compliance with and as

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authorized by state law, after public hearing and upon a majority vote of a majority of the members of the Grantor's City Council then present, pass an ordinance imposing a franchise fee

on Grantee's customers located within Grantor's corporate limits; provided, however, that the franchise fee shall not be effective, and Grantee shall not be obligated to collect and pay same, unless and until: (1) it is satisfactory to Grantee with respect to its compatibility with Grantee's billing system; (2) the form of assessment and collection of the franchise fee is based on either: (a) a percentage of Grantee's gross receipts of regulated sales or transportation revenues collected from Grantee's customers within Grantor's corporate limits; (b) a volumetric fee based upon Grantee's delivery of energy within Grantor's corporate limits; or (c) a flat fee collected on a nondiscriminatory basis from each of Grantee's customers within Grantor's corporate limits; and (3) Grantor has imposed a franchise fee on all other parties supplying energy within Grantor's corporate limits, calculated in the same manner as the franchise fee imposed on Grantee's customers.

GOVERNING RULES AND REGULATIONS

The franchise granted hereunder is 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 Grantor 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 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 Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

PROVISION FOR INADEQUATE ENERGY SUPPLIES

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 non-discriminatory as between communities receiving service from the Grantee.

CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES

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 Grantor and 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.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall

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obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects 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 Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering reasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

EXTENSION OF GRANTEE'S FACILITIES

Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Board make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

RELOCATION OF GRANTEE'S FACILITIES

If Grantor 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, unless otherwise reimbursed by federal, state or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference with Grantor's facilities.

If Grantor 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 with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of-way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

CONFIDENTIAL INFORMATION

Grantor acknowledges that certain information it might request from Grantee pursuant to this

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Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

FORCE MAJEURE

It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) 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; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) 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 of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

HOLD HARMLESS

Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

SUCCESSORS AND ASSIGNS

All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

NO THIRD PARTY BENEFICIARIES

This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

SEVERABILITY

If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

NON WAIVER

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Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

REPEAL CONFLICTING ORDINANCES

This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 171 of the city of Paullina, Iowa, is hereby repealed as of the effective date hereof.

EFFECT AND INTERPRETATION OF ORDINANCE

The captions that precede each section of this Ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

EFFECTIVE DATE AND ACCEPTANCE

This Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the city council, and filing with the Clerk of the city of Paullina, Iowa. The Clerk of the city of Paullina, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

Passed and approved by the city council of the city of Paullina, Iowa, this 4th day of April, 2011.

EDITOR'S NOTE

Ordinance No. 31 adopting a natural gas franchise for the city was passed and adopted on April 4, 2011.

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CHAPTER 1: FRANCHISES

ARTICLE 4 - COMMUNITY CABLE AND TELEPHONE SYSTEM

Section 1. Pursuant to a vote of the people held August 11, 1998, establishing a municipal broadband cable communications or television system (including video, voice telephone, data or any other form of telecommunications and cable communications) as a city utility, the Paullina Municipal Cable Communications Utility is hereby established under the control of the Paullina City Council.

Section 2. All provisions of the Code of Ordinances of the City of Paullina Municipal Electric Utility, including cable television service regulations shall include the Cable Communications Utility and the City Council shall have the same authority in regard to the Cable Communications Utility as it has over all other municipal utilities.

EDITOR'S NOTE

Ordinance 226, adopting a Community Cable and Telephone System was passed on September 21, 1998.

Article 4 was formerly Ordinance No. 127, a telephone franchise granted to Iowa Telephone Company, a Delaware Corporation, its lessees, successors and assigns on November 4, 1974. Ordinance 127 was repealed at the time of updating and compiling the 2003 Code of Ordinances.

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CHAPTER 1: FRANCHISES

ARTICLE 5 - RESERVED FOR FUTURE USE

THIS ARTICLE IS RESERVED FOR FUTURE USE

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TITLE VII

CHAPTER 2: URBAN RENEWAL

ARTICLE 6 - TAX INCREMENTAL FINANCING - URBAN RENEWAL PROJECT AREA I

AN ORDINANCE PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE PAULLINA AREA I URBAN RENEWAL PROJECT AREA, IN THE CITY OF PAULLINA, COUNTY OF O'BRIEN, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF PAULLINA, COUNTY OF O'BRIEN, SOUTH O'BRIEN COMMUNITY SCHOOL DISTRICT AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY SAID CITY IN CONNECTION WITH SAID URBAN RENEWAL REDEVELOPMENT PROJECT.

WHEREAS, the City Council of the City of Paullina, Iowa, after public notice and hearing as prescribed by law and pursuant to Resolution No. 99-45 passed and approved on the 15th day of November, 1999, adopted an Urban Renewal Plan (the "Urban Renewal Plan") for an urban renewal area known as the Paullina Area I Urban Renewal Project Area (the "Urban Renewal Project Area"), which Urban Renewal Project Area includes the lots and parcels located within the area legally described as follows:

Commencing at and including the South 319 Feet of Block Sixteen (16) Original Town; and including, the West 113.5 Feet of the North 200 Feet of Block Twenty Four (24); and including, Lots Four (4), Five (5), Six (6), Seven (7), and the South Eighty (80) Feet of Lot Eight (8) of Block Seventeen (17); and including, all of Clark Street right of way running North and South from the North Line of Grand Avenue to the South Line of Commerce Street; and including, Lots Three (3) and Four (4) of Block One (1) in Metcalf's First Addition; and including, Block 23 Original Town and Street right of way adjacent to the North; and including the Farmer's cooperative Company property consisting of Parcel 0000142100 Beginning at Northwest Corner of Corner of Block Twenty-Three (23), West 375 Feet, South 208.39 Feet, East 105.10 Feet, South 97.99 Feet, East 281.37 Feet, North 338.86 Feet, to Beginning (A.K.A. Parcel D); and including, Parcel 0000142300 Beginning 375 Feet West of Northwest Corner of Block Twenty-Three (23), South 100 Feet, West 35 Feet, South 50 Feet. West Parallel to Railroad to East Line of Main Street, North 150 Feet, East 365 Feet to Beginning.

WHEREAS, expenditures and indebtedness are anticipated to be incurred by the City of Paullina, Iowa in the future to finance urban renewal project activities carried out in furtherance of the objectives of the Urban Renewal Plan; and

WHEREAS, the City Council of the City of Paullina, Iowa desires to provide for the division of revenue from taxation in the Urban Renewal Project Area, as above described, in accordance with the provisions of Section 403.19 of the Code of Iowa, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

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PAULLINA, IOWA:

- 6.01 That the taxes levied on the taxable property in the Urban Renewal I Project Area legally described in the preamble hereof, by and for the benefit of the State of Iowa, City of Paullina, County of O'Brien, South O'Brien Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.
- 6.02 That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Project Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City of Paullina certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described herein (which certification is directed to be made during the 1999 calendar year), shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid.
- 6.03 That portion of the taxes each year in excess of the base period taxes determined as provided in Section 6.02 of this Ordinance shall be allocated to and when collected be paid into a special tax increment fund of the City of Paullina, Iowa hereby established, to pay the principal of and interest on loans, monies advanced to, indebtedness, whether funded, refunded, assumed or otherwise, including bonds or " obligations issued under the authority of Section 403.9 or 403.12 of the Code of Iowa, as amended, incurred by the City of Paullina, Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Urban Renewal Project Area pursuant to the Urban Renewal Plan, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the Urban Renewal Project Area without any limitation as hereinabove provided.
- 6.04 Unless or until the total assessed valuation of the taxable property in the Urban Renewal Project Area exceeds the total assessed value of the taxable property in the Urban Renewal Project Area as shown by the assessment roll referred to in Section 6.02 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Urban Renewal Project Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes.
- 6.05 At such time as the loans, advances, indebtedness, bonds and interest thereon of the City of Paullina, Iowa referred to in Section 6.03 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Urban Renewal Project Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
- 6.06 All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as

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to fully implement the provisions of Section 403.19 of the Code of Iowa, as amended, with respect to the division of taxes from property within the Urban Renewal Project Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Urban Renewal Project Area and the territory contained therein.

6.07 This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Editor's Note: Ordinance 235, approved November 15, 1999.

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CHAPTER 2: URBAN RENEWAL

ARTICLE 6 – URBAN RENEWAL DISTRICT 2 URBAN RENEWAL PROJECT AREA

AN ORDINANCE AMENDING ORDINANCE NO. 21, PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE AMENDED PAULLINA BUSINESS PARK (DISTRICT 2) URBAN RENEWAL AREA, IN THE CITY OF PAULLINA, COUNTY OF O'BRIEN, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF PAULLINA, COUNTY OF O'BRIEN, SOUTH O'BRIEN COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE AMENDED PAULLINA BUSINESS PARK (DISTRICT 2) URBAN RENEWAL AREA (AMENDMENT NO. 2 TO THE PAULLINA BUSINESS PARK (DISTRICT 2) URBAN RENEWAL PLAN)

WHEREAS, the City Council of the City of Paullina, State of Iowa, has heretofore, in Ordinance No. 21, provided for the division of taxes within the Paullina Business Park (District 2) Urban Renewal Area, pursuant to Section 403.19 of the Code of Iowa; and

WHEREAS, additional territory now has been added to the Paullina Business Park (District 2) Urban Renewal Area through the adoption of Amendment No. 2 to the Paullina Business Park (District 2) Urban Renewal Plan; and

WHEREAS, indebtedness has been incurred by the City, and additional indebtedness is anticipated to be incurred in the future, to finance urban renewal project activities within the amended Paullina Business Park (District 2) Urban Renewal Area, and the continuing needs of redevelopment within the amended Paullina Business Park (District 2) Urban Renewal Area are such as to require the continued application of the incremental tax resources of the amended Paullina Business Park (District 2) Urban Renewal Area; and

WHEREAS, the following enactment is necessary to accomplish the objectives described in the premises.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PAULLINA, STATE OF IOWA, THAT:

Ordinance Number 21 is hereby amended to read as follows:

Section 1: For purposes of this Ordinance, the following terms shall have the following meanings:

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(a) Original Area shall mean that portion of the City of Paullina, State of Iowa, described in the Urban Renewal Plan for the Paullina Business Park (District 2) Urban Renewal Area approved by Resolution No. 06-23 on the 7th day of August, 2006, which Original Area includes the lots and parcels located within the area legally described as follows:

A parcel of land in the Northwest Quarter (NW 1/4) of Section Ten (10) in Township Ninety-four (94) North of Range Forty-one (41) West of the 5th P.M., in O'Brien County and State of Iowa, as more particularly described on attached schedule A and, by this reference, incorporated herein.

SCHEDULE A:

All that part of the Northwest Quarter lying North of the former right-of-way of the Chicago and North Western Transportation Company and lying South of the North line of easement recorded in miscellaneous Book Ron Page 301; all in Section Ten (10) in Township Ninety-four (94) North of Range Forty-one (41) West of the Fifth Principal Meridian (5th P.M.), located in the City of Paullina, except that part thereof referred to as Parcel C of said NW 1/4 according to the Plat of Larry R. Nelson, P.E. & L.S. recorded in the Plat Book 2 on Page 841; and further excepting the South 120 feet of the North 320.7 feet of the West 183 feet of said NW 1/4 ; and also excepting (Louscher's House) generally located in the Southwest Corner of the NW 1/4 NW 1/4 of said Section 10, adjacent Northerly to Parcel C.

AND

A Strip of land 100 feet in width extending over and across the NW 1/4 of Section Ten (10) in Township Ninety-four (94) North of Range Forty-one (41) West of the 5th P.M., said strip of land being 50 feet in width on each side of the center line of the main track (now removed) of the former Chicago and North Western Transportation Company, as said main track center line was originally located and established over and across said Section 10;

AND

A strip of land 50 feet in width lying Southwesterly of and adjoining said above-described 100 foot-wide strip of land in the SE 1/4 NW 1/4 of said Section 10, and lying Southwesterly of a line drawn at right angles to said original main track center line at a point thereon distant 316 feet Northwesterly from the intersection thereof with the East line of the NW 1.4 of said Section 10;

AND

A strip of land 200 feet in width extending over and across the West 550 feet of the SW 1/4 NE 1/4 of said Section 10, said strip of land being 100 feet in width on each side of said original main track center line; and subject to reservations contained in deed recorded in Land Deed 94 on Page 1.

The intent with regard to the previous 3 descriptions is to convey all interests of "Louscher" in the former Railroad right-of-way located in the NW 1/4 and the SW 1/4 NE 1/4 of said Section 10.

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All subject to all other established Highways whether by Easement or by Deed.

(b) Amendment No. 1 Area shall mean that portion of the City of Paullina, State of Iowa, described in Amendment No. 1 to the Urban Renewal Plan for the Paullina Business Park (District 2) Urban Renewal Area approved by Resolution No. 06-36 on the 20th day of November, 2006, which Amendment No. 1 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 1

(The following legal description is updated to shorten it, but it contains the same land as the Original Area)

(This legal description covers the same property as the original Area, but is a shortened format)

A tract of land in the Northwest Quarter (NW 1/4) of Section Ten (10), in Township Ninety-four (94) North, of Range Forty-one (41), West of the Fifth Principal Meridian (5th P.M.),) O'Brien County, Iowa, partially located within the City of Paullina, referred to as Parcel H of said NW 1/4, containing 82.15 acres more or less, according to the Plat of Kevin D. Jongerius, P.L.S., recorded in Plat Book 3 on pages 857 and 858; subject to established highway.

AND

A strip of land 200 feet in width more or less, extending over and across the West 550 feet, more or less, of the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section Ten (10), in Township Ninety-four (94) North, of Range Forty-one (41), West of the Fifth Principal Meridian (5th Pm.) O'Brien County, Iowa, said strip of land being 100 feet in width, more or less on each side of said original main track center line, as said main track center line was originally located and established over and across said Section 10.

(c) Amendment No. 2 Area shall mean that portion of the City of Paullina, State of Iowa, described in Amendment No. 2 to the Urban Renewal Plan for the Paullina Business Park (District 2) Urban Renewal Area approved by Resolution No. 13-23 on the 23rd day of September, 2013, which Amendment No. 2 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 2 AREA

Parcel M located in the Northeast Quarter (NE 1/4) of Section Ten (10). Township Ninety-four (94) North, Range Forty-one (41) West of the Fifth Principal Meridian (5th P.M.), in O'Brien County, State of Iowa, as shown on the Plat of Survey of Adam N. Wiersma, L.S., recorded in Plat of Survey Book 5, on Page 525.

And

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The Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section Ten (10) in Township Ninety-four (94) North, Range Forty-one (41) West of the 5th P.M., in O'Brien County, Iowa, North of the former Railroad right-of-way, EXCEPTING THEREFROM Parcel B, Parcel

Parcel M, and the West Forty (40) feet of Parcel A.

and

That portion of the right-of-way of Iowa Highway 10 lying North of the City of Paullina's reservoir property, which lies adjacent to the northern edge of the existing Urban Renewal Area, to the eastern edge of the 20 acre Parcel M in the NE 1/4 of 10-94-41. And the City reservoir property lying 2 rods east of the quarter (1/4) section line in the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) in Section Ten (10), Township Ninety-Four (94) North, Range Forty-one (41) West of the

Fifth Principal Meridian (5th P.M.), O'Brien County, Iowa and lying adjacent to the northern edge of the existing Urban Renewal Area to the right-of-way of Iowa Highway 10.

and

That portion of the proposed future street opening planned for the Paullina Business Park that runs from the northern edge of the existing Urban Renewal Area to the right-of-way of Iowa Highway 10.

and

The City of Paullina's property, approximately 2.53 acres south of the original Urban Renewal Area 2 boundaries, located in the Southeast (SE) corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) in Section Ten (10), Township Ninety-Four (94) North, Range Forty-one (41) West of the Fifth Principal Meridian (5th P.M.), O'Brien County, Iowa; and

(d) Amended Area shall mean that portion of the City of Paullina, State of Iowa, included within the Original Area, Amendment No. 1 Area, and Amendment No. 2 Area, which Amended Area includes the lots and parcels located within the area legally described in subparagraphs (a)-(c) above.

Section 2: The taxes levied on the taxable property in the Amended Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, County of O'Brien, Iowa, South O'Brien Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

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Section 3: As to the Original Area and Amendment No. 1 Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Area upon the total sum of the assessed value of the taxable property in the Original Area as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City of Paullina certified to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described herein, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.

As to Amendment No. 2 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2012, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

Section 4: That portion of the taxes each year in excess of the base period taxes for the Amended Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Paullina, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by the City of Paullina, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Area pursuant to the Urban Renewal Plan, as amended, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Amended Area without any limitation as hereinabove provided.

Section 5: Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 6: At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Paullina, State of Iowa, referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

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Section 7: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Area and Amendment No. 1 Area under the provisions of Section 403.19 of the Code of Iowa, as authorized in Ordinance No. 21, and to fully implement the provisions of Section 403.19 of the Code of Iowa with respect to the division of taxes from property within the Amendment No. 1 Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Amended Area and the territory contained therein.

Section 8: This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this 23 day of September, 2013.

Mike Otto Mayor

ATTEST:

Sandy Fritz City Clerk

Read First Time: September 23, 2013

Read Second Time: waived

Read Third Time: waived

PASSED AND APPROVED: September 23, 2013.

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CHAPTER 3: FISCAL MANAGEMENT

ARTICLE 7- INDUSTRIAL TAX EXEMPTION

- 7.01 PARTIAL EXEMPTION. This city does hereby provide for a partial exemption from property taxation of the actual value added to the industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph (e).
(Code of Iowa, Sec. 427B.1)
- 7.02 NEW CONSTRUCTION. New construction as referred to herein means new buildings and structures which are constructed as additions to existing buildings and structures.
(Code of Iowa, Sec. 427B.1)
- 7.03 RECONSTRUCTION. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council of the city upon the recommendation of the Iowa Department of Economic Development.
(Code of Iowa, Sec. 427B.1)
- 7.04 NEW MACHINERY AND EQUIPMENT. The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), of the Code of Iowa, as amended, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.
(Code of Iowa, Sec. 427B.1)
- 7.05 DURATION. The partial exemption shall be available until such time as this article is repealed by the city council of the City of Paullina, Iowa.
- 7.06 AMOUNT OF EXEMPTION. The actual value added to industrial real estate for the reasons specified in this article is eligible to receive a partial exemption from taxation for a period of five (5) years. 'Actual value added' as used in this article means the actual value added as of the first of the year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value added as of the first of the year for which the exemption is received, except that actual value added by improvements to machinery and equipment means that actual value as determined by the assessor as of January 1st of each year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

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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%).

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

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

7.07 APPLICATION. Application for exemption shall be made as follows:

1. From and Manner of Filing. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February 1st of the assessment year in which the value added is first assessed for taxation. Applications for exemptions 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.
2. Submission to Council. A person may submit a proposal to the city council of the city to receive prior approval for eligibility for a tax exemption on new construction. The city council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the city. The prior approval shall also be subject to the hearing requirements of this article. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the city council to approve or reject.

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

7.08 REPEAL. When, in the opinion of the city council, continuation of the exemption granted by this article ceases to be of benefit to the city, the city council may repeal this article, but all existing exemptions shall continue until their expiration.

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

7.09 LIMITATION ON TAX EXEMPTION. A property tax exemption under this article 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)

TITLE VII

TITLE VIII – AIRPORT LAND USE & HEIGHT OVERLAY ZONING ORDINANCE

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PAULLINA, IOWA MUNICIPAL AIRPORT 2016 AIRPORT LAND USE AND HEIGHT OVERLAY ZONING ORDINANCE



With Information Provided by:

**Iowa Airport
Land Use Guidebook**



Prepared with Planning Assistance from
**Northwest Iowa Planning &
Development Commission**



DGR Engineering
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Sioux Falls, SD 57108

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Section 1. Introduction

This ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses; otherwise regulating the use of property, within the vicinity of the Paullina Municipal Airport. Creation of appropriate zones and establishing the boundaries thereof, as well as providing for changes in the restrictions and boundaries of such zones is vested in this ordinance. The Paullina Airport Land Use & Height Zoning maps are incorporated into and made part of this ordinance. This document also provides for the enforcement of the provisions contained within this ordinance, the establishment of an Airport Zoning Board of Adjustment; and imposition of penalties related to the implementation of the ordinance.

This ordinance is intended to supplement and interpreted as an overlay of zoning regulations in addition to the zoning regulations of the municipalities or county in which the airport zoning boundaries cover. Those affected governmental jurisdictions affected by this ordinance are the City of Paullina, Iowa and O'Brien County, Iowa. The 2016 Paullina, Iowa Airport Land Use & Height Overlay Zoning Ordinance is created by the City of Paullina with assistance from DGR Engineering of Sioux Falls, SD and Northwest Iowa Planning and Development Commission (NWIPDC) of Spencer, IA.

Section 2. Authority

Iowa Code Section 329.3, Airport Zoning, empowers local municipalities to zone airports including dividing such area into zones, and within such zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the heights to which structures and trees may be erected or permitted to grow.

Section 3. Statement of Purpose and Findings

The Paullina Municipal Airport is acknowledged as an essential public facility to the State of Iowa and the local community. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Paullina Municipal Airport. There shall be no creation or establishment of a hazard that neither endangers public health, safety, welfare, and affects an individual's quality of life nor prevents the safe movement of aircraft at the Paullina Municipal Airport.

For the protection of the public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards. The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power. The prevention of new airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards, are considered to be a public purpose for which the City of Paullina and O'Brien County may raise and expend public funds, as an incident to the operation of airports, to acquire or property interest therein.

Section 4. Short Title

This Ordinance shall be known and may be cited as the **Paullina Airport Zoning Ordinance**, and it is referred to as the "Ordinance" within the following document.

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Section 5. Applicability

This ordinance encompasses a general area surrounding the Paullina Municipal Airport. Specific dimensions associated with the zoning boundary are shown in the Paullina Airport Land Use & Height Overlay Zoning Maps. See Exhibit A.

Section 6. Definitions

The following definitions shall be utilized for terms as appropriate to the ordinance.

6.1 **Airport.** (FAA FAR Sec. 152.3)

Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition. The Paullina Municipal Airport is owned by the City of Paullina, Iowa.

6.2 **Airport Elevation.** (FAA AC 150/5190-4A)

The highest point on an airport's usable landing area measured in feet from sea level.

6.3 **Airport Hazard.** (FAA FAR Sec. 152.3)

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that- obstruct the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.

6.4 **Airport Layout Plan (ALP).** (FAA FAR Sec. 152.3)

The plan of an airport showing the layout of existing and proposed airport facilities.

6.5 **Airport Overlay Zones.**

A zone intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and RPZs have been combined to create five airport overlay zones. The five specific zones create a comprehensive area focused on maintaining compatible land use around airports.

- **Zone A [Runway Protection Zone]** - is intended to provide a clear area that is free of above ground obstructions and structures. This zone is closest to the individual runway ends.
- **Zone B [Approach Surface]** - is a critical overlay surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway.
- **Zone C [Transitional Surface]** - includes those areas that are parallel to the runway pavement and extend from the edge of the primary surface.
- **Zone D [Horizontal Surface]** - is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.
- **Zone E [Conical Surface]** - is the outermost zone of the overlay areas and has the least number of land use restriction considerations. Zone E begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.

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- 6.6 **Airport Zoning Permit.**
Airport zoning permit allowing new development or alteration or expansion of a nonconforming use.
- 6.7 **Airspace.**
The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.
- 6.8 **Airport Land Use & Height Overlay Zoning Map.**
The airport land use & height overlay zoning map is compiled from the criteria in FAR Part 77, "Objects Affecting Navigable Airspace." It shows the area affected by the Airport Overlay Zoning Ordinance, and includes the layout of runways, airport boundaries, elevations, and area topography. Applicable height limitation areas are shown in detail.
- 6.9 **Approach Slope. (FAR Part 77)**
The ratio of horizontal to vertical distance indicating the degree of inclination of the Approach Surface. The ratio is 20:1 for all utility and visual runways extended from the primary surface a distance of 5,000 feet.
- 6.10 **Approach Surface. (FAA AC 150/5190-4A)**
A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 6.11 **City.**
The City of Paullina, Iowa.
- 6.12 **Compatibility.**
The degree to which land uses or types of development can coexist or integrate.
- 6.13 **County.**
O'Brien County, Iowa.
- 6.14 **Easement. (FAA AC 5020-1)**
The legal right of one party to use a portion of the total rights in real estate owned by another party. This may include the right of passage over, on, or below property; certain air rights above the property, including view rights; and the rights to any specified form of development or activity, as well as any other legal rights in the property that may be specified in the easement document.
- 6.15 **Federal Aviation Administration (FAA).**
A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promoting the development of a national system of airports.
- 6.16 **Federal Aviation Regulations (FAR). (FAA FAR)**
Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

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- **FAR Part 36.** (FAA FAR Sec. 36.1) Regulation establishing noise standards for civil aviation fleet.
- **FAR Part 91.** (FAA FAR Sec. 91.1) Regulation pertaining to air traffic and general operating rules, including operating noise limits.
- **FAR Part 150.** (FAA FAR Sec. 150.1) Regulation pertaining to airport noise compatibility planning.
- **FAR Part 161.** (FAA FAR Sec. 161.1) Regulation pertaining to notice and approval of airport noise and access restrictions.
- **FAR Part 77.** (FAA FAR Sec. 77.1) Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

6.17 General Aviation Airport.

Any airport that is not an air carrier airport or a military facility.

6.18 Height.

Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Official Height Zoning Map; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.

6.19 Imaginary Surfaces. (FAA FAR Part 77.25)

Those areas established in relation to the airport and each runway consistent with FAR Part 77 in which any object extending above these imaginary surfaces, by definition, is an obstruction.

- **Transitional surface.** The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.
- **Horizontal surface.** The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.
- **Conical surface.** The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet.
- **Approach surface.** The approach surface is longitudinally centered on an extended runway centerline, and extends outward and upward from the end of the runway primary surface.

6.20 Incompatible Land Use. (FAA FAR Sec. 150.7)

The use of land which is normally incompatible with the aircraft and airport operations (such as, but not limited to, homes, schools, nursing homes, hospitals, and libraries).

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6.21 **Land Use Compatibility.**

The coexistence of land uses surrounding the airport with airport-related activities.

6.22 **Lighting and Marking of Hazards to Air Navigation.**

Installation of appropriate lighting fixtures, painted markings or other devices to such objects or structures that constitute hazards to air navigation.

6.23 **Mitigation.**

The minimization, reduction, elimination or compensation for adverse environmental effects of a proposed action.

6.24 **Noise Impact.**

A condition that exists when the noise levels that occur in an area exceed a level identified as appropriate for the activities in that area.

6.25 **Noise Sensitive Area.** *(FAA AC 91-36D)*

Defined as an area where noise interferes with normal activities associated with the area's use. Examples of noise-sensitive areas include residential, educational, health, and religious structures and sites, and parks, recreational areas (including areas with wilderness characteristics), wildlife refuges, and cultural and historical sites where a quiet setting is a generally recognized feature or attribute.

6.26 **Non-Conforming Use.** *(FAA Web site)*

Any pre-existing structure, tree, or use of land that is inconsistent with the provisions of the local land use or airport master plans.

6.27 **Object.** *(FAA AC 150/5300-13)*

Includes, but is not limited to above ground structures, navigational aids, people, equipment, vehicles, natural growth, terrain, and parked aircraft.

6.28 **Obstacle Free Zone (OFZ).** *(FAA 150/5300-13)*

The OFZ is the airspace below 150 feet (45m) above the established airport elevation and along the runway and extended runway centerline that is required to be clear of all objects, except for the frangible visual NAVAID's that need to be located in the OFZ because of their function, in order to provide clearance protection for the aircraft landing or taking off from the runway, and for missed approaches.

6.29 **Obstruction.** *(FAA AC 150/5190-4A)*

Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, specific to its geographic location relative to the runway/airport.

6.30 **Overlay Zone.**

A mapped zone imposing requirements in addition to those of the underlying zoning district.

6.31 **Primary Surface.** *(FAA AC 150/5190-4A)*

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set

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forth in FAR Part 77. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

6.32 Primary Runway. *(FAA AC 150/5325-4B)*

The runway used for the majority of airport operations. Large, high-activity airports may operate two or more parallel primary runways.

6.33 Public Use Airport. *(FAA AC 150/5190-6)*

Means either a publicly owned airport or a privately owned airport open for public use.

6.34 Runway Protection Zone (RPZ). *(FAA AC 150/5300-13)*

An area off the runway end designed to enhance the protection of people and property on the ground.

6.35 Structure.

Any object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

6.36 Variance.

An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land that is prohibited by a zoning ordinance. A lawful exception from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or unnecessary hardships by the petitioner being required to comply with the regulations and standards from which a variance is sought.

6.37 Visual Approach.

An approach to an airport conducted with visual reference to the terrain.

6.38 Visual Runway. *(FAA AC 150/5300-13)*

A runway without an existing or planned straight-in instrument approach procedure.

6.39 Wildlife Hazards.

Wildlife (birds, mammals, reptiles), including feral animals and uncontrolled domesticated animals associated with aircraft strike problems, and capable of causing structural damage to airport facilities or attractants to other wildlife that pose a strike hazard.

Section 7. Air Space Obstruction Zones & Airport Overlay Zoning Maps

The zones established by this ordinance is illustrated on the official Paullina Municipal Airport Land Use & Height Overlay Zoning Map consisting of two (2) sheets, prepared by DGR Engineering, attached as Exhibit A to this Ordinance. Such Official Airport Land Use & Height Overlay Zoning Map may be amended from time to time, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this ordinance.

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Section 8. Airport Zoning Requirements

In accordance with Section 329.10, Iowa Code, there are three (3) principal airport zoning requirements supported by additional information contained within the following remaining sections of this ordinance. These basic zoning requirements state:

1. All airport zoning regulations adopted under this ordinance shall be reasonable and none shall impose any requirement or restriction that is not necessary to make effective the purposes of this ordinance.
2. *a.* Airport zoning regulations adopted under this ordinance may require the removal, lowering, or other change or alteration of any structure or tree, or a change in use, not conforming to the regulations when adopted or amended.
b. Airport zoning regulations adopted under this ordinance may require a property owner to permit the City of Paullina to install, operate, and maintain on the property markers and lights as necessary to indicate to operators of aircraft the presence of the airport hazard, when adopted or amended.
3. All such regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

The City of Paullina will be responsible for the initial removal of trees, structures, or other natural or man-made obstructions that are not conforming to the regulations of this ordinance when adopted or amended. Any subsequent alterations or removal of any natural or man-made obstructions to the Paullina Municipal Airport or its airspace will be responsibility of the property owner.

Section 9. Nonconformities

It is the intent of this ordinance to permit legal nonconforming buildings, structures, or natural resources to continue until they are removed but not to encourage their continuance, unless such nonconforming use is determined by the FAA to be a hazard within one of the airport zones and must be altered or changed in accordance with FAA regulations. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used to add other nonconforming structures prohibited elsewhere in the defined airport zones.

In accordance with Section 329.10, Iowa Code, and stated above in Section 8. of this ordinance, any preexisting nonconforming structure, tree, or land use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted. With that stated, where a lawful building or structure exists prior to the effective date of adoption or amendment of this ordinance that cannot be built under the terms of this airport ordinance by reason of restrictions on height or land use compatibility, such structure may be continued so long as it remains otherwise lawful and in compliance with FAA regulations; subject to the following provisions:

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1. No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity. Such structure may be enlarged or altered in a way that does not increase its nonconformity.
2. Should such nonconforming structure be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost, it shall be reconstructed only in conformity with the provisions of this airport ordinance.
3. Should any nonconforming structure be moved within the boundaries of any of the five (5) airport zones for any reason or for any distance whatever, it shall thereafter conform to the regulations of this airport zoning ordinance.
4. Discontinuance. In the event a nonconforming building, structure or use is discontinued for a period of one (1) year, the height or land use compatibility shall conform thereafter to the provisions of this airport zoning ordinance.

On any nonconforming building or structure, work may be done on ordinary repairs or replacement of non-bearing walls not exceeding seventy-five percent (75%) of the assessed value of the building, provided the cubic content of the building shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, buildings or structures.

Section 10. Land Use Safety Zones

FAR Part 77 Surfaces and Runway Protection Zones have been combined to create five (5) airport overlay zones. These five zones are designed to maintain compatible land uses around the Paullina Municipal Airport. The zones shall be evaluated for compatible land uses. Specific dimensions for the individual zones for each runway end are noted in the following tables and text. The Airport Land Use & Height Overlay Zoning Maps should be evaluated to determine the specific area of impact associated with each zone.

Zone A – Runway Protection Zone (RPZ)

Zone A is intended to provide a clear area that is free of above-ground obstructions and structures. Runway Protection Zones (RPZs), formerly known as clear zones, were originally established to define land areas below aircraft approach paths in order to prevent the creation of airport hazards or development of incompatible land use. As stated in the Iowa Airport Land Use Guidebook, 2008, the FAA adopted clear zones with dimensional standards to implement a recommendation from the 1952 President's Airport Commission study that identified the establishment of clear areas beyond runway ends was deemed worthy of federal management. RPZs are designed with the intent to protect people and property on the ground. They are located at the end of each runway and should ideally be controlled by the airport. Control is preferably exercised by acquisition of sufficient property interest to achieve and maintain an area that is clear of all incompatible land uses, objects, and activities.

Areas around runways
and runway ends must
be protected!



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Table 1. Zone A - Dimensional Requirements

	Runway Ends	Approach Visibility Minimums ¹	Dimensions		
			Length L feet	Inner Width W ₁ feet	Outer Width W ₂ feet
Existing Runway	Runway 35	Visual	1,000	250	450
	Runway 17	Visual	1,000	250	450

1. The RPZ dimensional standards are for the runway end with the specified approach visibility minimums.
Source: FAA AC 150/5300-13, current edition, Airport Design Standards

Zone B – Approach Surface

Zone B is a critical airport overlay zoning surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and expands uniformly. Table 2 below illustrates the various sizes of Zone B based upon the specific runway criteria. A portion of Zone B is overlain by Zone A because the approach surface and RPZ overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ.

Table 2. Airport Overlay Zones B through E Dimensional Standards

Item	Runway Dimensional Standards (Feet)	
	Runway 35	Runway 17
Primary surface width and Zone B inner width	250	250
Zone B end width	1,250	1,250
Zone B length	5,000	5,000
Zone C width	1,050	1,050
Zone D radius	10,000	10,000
Zone E width	4,000	4,000

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Zone C – Transitional Surface

Zone C includes those areas that are parallel to the runway pavement and extend 1,050 feet from the edge of the primary surface paralleling the runway and extended runway centerline until they reach the end of Zone A at a 90-degree angle. The specific dimensions for Zone C are based upon various options for the primary surface that is predicated upon the type of approach and critical aircraft. The transitional surface (Zone C) extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one-foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

Zone D – Horizontal Surface

Zone D is typically elliptical in shape, depending upon the runway types and configurations at individual airports. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc for all runway ends is 10,000 feet.

It is important to protect airports from tall structures that can obstruct navigable airspace!



Zone E – Conical Surface

Zone E is the outermost zone of the airport overlay zoning areas and has the least number of land use restriction considerations. The zone begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface. According to the Iowa Airport Land Use Guidebook, the conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet. Height limitations for the surface range from 150 feet above the airport reference elevation at the inner edge to 350 feet at the outer edge.

Section 11. Land Use Zone Compatibility

The need to plan for compatible land use near airports is not a new concept. Compatible land use was recognized as early as 1952 in a document entitled *The Airport and Its Neighbors - The Report of the President's Airport Commission*. As stated in the Iowa Airport Land Use Guidebook, the incidence of incompatible land uses and impact on airport operations and development have escalated. As decisions to allow incompatible land uses near airports threaten the nation's aviation system, implementation of compatible land use controls have become an industry priority. It is important for the Paullina Municipal Airport to maintain an obstruction-free airport and associated

DEFINITION OF "COMPATIBLE LAND USE" - Airport compatible land uses are defined as those developments that comply with generally accepted restrictions on location, height, and activity that provide for safe aircraft movement and airport operations. Additionally, it includes the preservation of public health, safety, and welfare for those persons located in the airport's environs.

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airspace. This includes the area that encompasses the airport, runway protection zones, approach areas, and general vicinity of the airport. While some of these areas are owned by airports, the bulk of the land beyond airport boundaries is privately owned and needs to be managed by the local municipality and/or county in which the airport jurisdiction falls. FAA criteria, such as grant assurances and design guidelines, along with aviation accident statistics, provide the foundation and the justification for compatible land uses.

The above stated definition, defined in the Iowa Airport Land Use Guidebook, appears vague since no specific land use types are specified. However, the vagueness is intentional because nearly every type of land use can be both compatible and incompatible depending upon the particular aspects of the land use, including management of the land use, location of the land use relative to the airport. For example, land uses typically considered to be compatible with airport operations include commercial, industrial, and agricultural activities. With that said, each of these uses may also contain aspects considered incompatible such as:

- Commercial uses may have dense concentrations of people
- Industrial uses that can generate smoke/steam that creates visual obstructions
- Agricultural operations can act as wildlife attractants in certain circumstances

The City of Paullina, the Paullina Airport Board and O'Brien County must each and collaboratively assess the compatibility of the land uses in detail as related to the Paullina Municipal Airport. Descriptions of land use issues include high concentrations of people, tall structures, visual obstructions, and wildlife and bird attractants.

Lastly, land use compatibility is critical to the Paullina Municipal Airport because certain grant assurances are required as part of a project application from airports that are eligible to request federal funds. Upon acceptance of grant money, these assurances are incorporated into and become part of the grant agreement. The airport sponsor is obligated to comply with specific assurances, which include the maintenance of compatible land use within the vicinity of the airport.

Specifically, Grant Assurance 21 included in the September 1999 amendment to 49 USC 47107, requires all airports that accept federal money to take appropriate action against incompatible land uses in the immediate vicinity of the airport. Such actions include adopting zoning laws and zoning changes that will increase airport land use compatibility. This grant assurance obligates an airport sponsor to protect the federal investment through the maintenance of a safe operating environment. The development of compatible land uses near airports is supported through cooperative comprehensive planning that includes FAA standards. Land use compatibility is a requirement for eligibility to receive FAA grant money for airport improvements. Adjacent land uses that are not compatible with airports may result in the loss of federal or state funding for airports.

The following tables shall be utilized to evaluate land use compatibility for various land use classifications.

Land use compatibility is a requirement for eligibility to receive FAA grant money for airport improvements!



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1. Uses identified as **COMPATIBLE** shall not require additional review; however, consideration should be given to the following areas of concerns: High concentrations of people, tall structures, visual obstructions, or wildlife and bird attractants.
2. Uses found to be **NOT COMPATIBLE** shall be precluded from development within the specific zones. The applicant reserves the right to apply for a variance for an incompatible use to be built within the requested airport zone and in accordance with FAA requirements. Variances will be reviewed by the Airport Board of Adjustment.
3. Uses found to require **ADDITIONAL REVIEW** shall be evaluated for general compatibility by the Paullina Zoning Administrator for potential conflicting land uses or potential negative effects that may need to be mitigated. If the areas of concern are addressed by the applicant, the Airport Zoning Administrator shall recommend issuance of the zoning permit. If no areas of potential conflicting uses or incompatible land uses are identified, or need to be mitigated, the Airport Zoning Administrator shall proceed to recommend issuance of the zoning permit.

Paullina Airport Zone – Land Use Chart					
<i>C = Compatible AR = Additional Review Required NC = Not Compatible</i>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Residential Uses					
Single Family Detached Dwelling <i>(i.e. single family residential)</i>	AR	AR	C	C	C
Multi-Family Uses <i>(i.e. apartments, condos, townhouse, etc.)</i>	AR	AR	C	C	C
Group Living Uses <i>(i.e. group or nursing homes, assisted living)</i>	AR	AR	C	C	C
Manufactured/Mobile Housing Parks	AR	AR	C	C	C
Commercial Uses					
Eating and Drinking Establishments <i>(i.e. restaurants, cafes, fast food restaurants, bars, nightclubs, taverns, etc.)</i>	AR	AR	C	C	C
Quick Vehicle Servicing Uses <i>(i.e. gas station, unattended card key service stations, car washes, etc.)</i>	AR	AR	C	C	C
General Office Uses <i>(i.e. business offices, financial businesses, government offices - 35 ft. or less in height)</i>	AR	AR	C	C	C
Medical Office/Clinic Uses <i>(i.e. medical/dental clinics, chiropractic, physical therapy - 35 ft. or less in height)</i>	AR	AR	C	C	C
Retail Sales <i>(i.e. convenience stores, electronics, furniture, groceries, hardware, malls, etc.)</i>	AR	AR	C	C	C

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Outdoor Storage and Self-Service Storage <i>(i.e. storage yards, vehicles sales, landscaping, equipment sales, mini-warehousing, etc.)</i>	AR	AR	C	C	C
Vehicle Repair Uses <i>(i.e. repair or service shops, alignment, tire sales)</i>	AR	AR	C	C	C
All Other Commercial Uses <i>Any other commercial use not classified in one of the above listed categories</i>	AR	AR	C	C	C
<i>C = Compatible AR = Additional Review Required NC = Not Compatible</i>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Industrial Uses					
Light Manufacturing <i>(i.e. research, HVAC, plumbing, janitorial, engineering, assembly, warehousing, etc.)</i>	AR	AR	C	C	C
*Heavy Manufacturing <i>(i.e. concrete plants, packing, animal, ethanol or other facilities with excessive smoke or dust)</i>	NC	NC	AR	C	C
Mining and Extraction Uses	NC	AR	AR	C	C
Salvage Operations <i>(i.e. collect, store, and dismantle damaged or discarded vehicles, machinery, etc.)</i>	AR	C	C	C	C
Waste Related Uses <i>(i.e. recycling centers, landfills, waste transfer stations, hazardous waste collection sites, etc.)</i>	NC	NC	NC	AR	AR
Civic & Public Uses					
Basic Utility Uses <i>(i.e. utility facilities, electrical substations, water and sewer lift stations, water towers)</i>	NC	AR	AR	C	C
General Community Services <i>(i.e. libraries, community centers, police/fire, etc.)</i>	AR	AR	C	C	C
Daycare Uses <i>(i.e. daycare, preschools, after school care)</i>	AR	AR	C	C	C
Educational Facilities <i>(i.e. any public or private school)</i>	AR	AR	AR	C	C
Hospitals <i>(i.e. hospitals, medical centers)</i>	AR	AR	AR	C	C
Religious Assembly or Civic Uses <i>(i.e. churches, religious use or civic clubs)</i>	AR	AR	AR	C	C
Infrastructure Uses					
Communication Uses <i>(i.e. wireless, emergency towers, antennas, etc.)</i>	NC	AR	AR	AR	AR
Transportation and Parking Uses <i>(i.e. highways, local roads, parking lots, etc.)</i>	C	C	C	C	C
Utility Uses <i>(i.e. solar power, wind generators, wind farms)</i>	NC	NC	AR	AR	AR

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Agriculture Uses					
Agriculture Plant-related <i>(i.e. crops, vegetable, fruit, and tree farms, etc.)</i>	AR	C	C	C	C
Agriculture Animal-related <i>(i.e. livestock production, dairies, horse farms)</i>	AR	C	C	C	C
Agricultural Housing <i>(i.e. residential dwellings used for ag purposes)</i>	AR	AR	AR	C	C
Agricultural Facilities/Buildings <i>(i.e. fuel storage/pumping facility, grain elevator, livestock/seed/grain sales, etc.)</i>	NC	AR	C	C	C
<i>C = Compatible AR = Additional Review Required NC = Not Compatible</i>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Recreation Uses					
Outdoor Commercial Recreation <i>(i.e. camping, swimming pool, drive-in theaters, amphitheaters, fairgrounds, race tracks, etc.)</i>	AR	AR	AR	C	C
Indoor Commercial Recreation <i>(i.e. health clubs, bowling alleys, skating rinks, billiard halls, arcades, indoor theaters)</i>	AR	AR	C	C	C
Golf Recreation <i>(driving ranges, golf courses, country clubs)</i>	AR	AR	AR	C	C
Parks <i>(i.e. aquatic, neighborhood, school, city)</i>	AR	C	C	C	C

Regarding the land use compatibility charts on the previous pages, if a specific use of land, building or structure is proposed by an applicant and not identified on the land use compatibility charts, the Airport Zoning Administrator shall be responsible for determining the level of land use compatibility in each applicable zone. If the applicant disagrees with the decision, they may appeal the decision of the administrator and have the Airport Board of Adjustment make a determination on the proposed land use compatibility.

TITLE VIII

Section 12. Airport Zoning Ordinance Administration _____

As stated in Section 329.13, Iowa Code, all airport zoning regulations adopted under this ordinance shall provide for the administration and enforcement of such regulations by an administrative agency. For purposes of the Paullina Airport Zoning Ordinance, the administration will be enforced by the Paullina Airport Zoning Administrator with consultation and cooperation from the O'Brien County Engineer. However, in no case, shall such administrative agency be or include any member of the airport Board of Adjustment. The duties of any administrative agency designated pursuant to the Iowa Code or this ordinance shall not include any of the powers herein delegated to the Board of Adjustment. The Paullina Airport Zoning Administrator will be recognized as the official airport Zoning Administrator since the operation of the Paullina Municipal Airport falls within the jurisdiction of the city. If needed, the O'Brien County Engineer may be called upon from time to time to consult with and/or confer with the Airport Zoning Administrator about the airport zoning ordinance regulations.

Section 13. Airport Zoning Review _____

Buildings or other structures located within the Paullina Municipal Airport land use and height overlay zoning area, as defined herein, shall be reviewed in accordance with the allowable height and land use classifications accordingly. All proposed land uses, exclusive of communication uses (e.g. specifically cell towers, antennas, etc.), utility uses (e.g. specifically wind generators, wind farms) and waste related uses (e.g. specifically landfills), shall not be subject to any further review of the airport zoning ordinance if such proposed building or structure is located within airport overlay Zones D and E and such building or structure meets the height requirements indicated on the Paullina airport zoning maps.

Furthermore, those proposed buildings or structures to be located within airport overlay zones A, B, and C of the Paullina Municipal Airport land use and height overlay zoning area, as defined herein, such proposed buildings or structures shall automatically be reviewed by the Airport Zoning Administrator in accordance with both height and land use conformance. It shall be the duty of the Airport Zoning Administrator to determine if such proposed building or structure meets the initial criteria for additional height and land use review or if the proposed use is exempted from additional review. If the affected jurisdiction determines an additional level of review is needed, the appropriate authority shall submit a copy of the permit under review to the Airport Zoning Administrator. Upon review by the Airport Zoning Administrator, comments and a recommendation on approval, approval with conditions or denial of such permit shall be returned to the originating jurisdiction in which the proposed building or structure is located. The Airport Zoning Administrator shall approve the permit if after evaluation, the proposed project is found to be adequately compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator shall recommend denial of the permit. Should the permit be denied, the applicant shall have the right to request an appeal as prescribed in this ordinance. Any airport zoning review shall be null and void if the purpose for which the permit is issued has not commenced within one (1) year from date of issuance. Should the activity not be commenced within that time, a new airport zoning review shall be required.

Section 14. Hazardous Markings and Lighting _____

This section provides for safe aircraft operations, as well as the health, safety, and welfare of individuals on the ground within the vicinity of the airport by identifying lighting and marking requirements. Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any structure, object, natural vegetation, or terrain is hereby required to install,

TITLE VIII

operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazardous markers and lights shall be installed, operated, and maintained at the expense of the owner of such building, structure or object requiring such lighting or marking requirements within the findings of an FAA 7460-1 airspace analysis.

Section 15. Height Limitations

No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or be maintained within any airport zoning district established by this ordinance to a height in excess of the applicable height limitations set forth in this ordinance and the airport zoning map. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the "Official Paullina Municipal Airport Land Use & Height Overlay Map" within the airport zoning district encompassed by this ordinance. The Paullina Municipal Airport Land Use & Height Overlay Map is located in the Paullina city offices and the O'Brien County Engineer's Office. An FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate potential height impacts. However, it shall not be the sole source of review.

Section 16. Airport Board of Adjustment

The Paullina Airport Board of Adjustment shall consist of two (2) members each from the City of Paullina and O'Brien County, selected by the governing body thereof, and one (1) additional member to be selected by the Paullina Airport Board. The five (5) appointed members will select a chairperson amongst themselves. Board of Adjustment members may be removed for cause by the appointing authorities (either City of Paullina or O'Brien County) upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. The terms of the board members shall be for five (5) years, except when the board is first created, one (1) of the members appointed by each participating governmental jurisdiction shall be appointed for a term of two years and one (1) for a term of four years.

Any person, property owner, or taxpayer impacted by any decision of this ordinance, may appeal to the Board of Adjustment. According to Section 329.12, Code of Iowa, the governing body of any municipality seeking to exercise powers under Chapter 329, shall by ordinance provide for the appointment of a Board of Adjustment, as provided in section 414.7 for a city, or as provided in section 335.10 for a county. The board of adjustment has the same powers and duties, and its procedure and appeals are subject to the same provisions as established in sections 414.9 to 414.19 for a city, or sections 335.12 to 335.21 for a county. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulations adopted pursuant to this chapter or to effect any variance therefrom.

Section 17. Variances

In accordance with Section 239.11, Code of Iowa, any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use the person's property in violation of airport zoning regulations adopted under this ordinance, may apply to the Board of Adjustment for a variance from such zoning regulations. Such variances shall be allowed where a 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 would do

TITLE VIII

substantial justice and be in accordance with the spirit of the regulations and this chapter; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this Ordinance. No application for variance to the requirements of this ordinance may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Paullina Airport Zoning Administrator for an opinion as to the aeronautical effects of the variance.

Section 18. Judicial Review

This section defines the method for the judicial review process. Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board by a Court of Record in the manner provided by the laws of the State of Iowa and particularly by Section 414.15, Code of Iowa.

Section 19. Penalties and Fines

Unless provided elsewhere in this ordinance or the city's Code of Ordinances, any person, firm, corporation, or agent in charge of such building or land who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement any of the provisions of this ordinance or any amendment thereof; or who shall build or alter any building in violation of this ordinance 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 and punishable by civil penalty as provided herein (*Code of Iowa, Sec. 331.307[3]*). Each day that a violation continues to exist constitutes a separate violation.

A municipal infraction for an airport zoning violation in Paullina, Iowa is punishable under the following civil penalties: (*Code of Iowa, Sec. 331.307[1]*)

First offense – no less than \$250 and not to exceed \$750.00, plus court costs

Second and repeat offenses – no less than \$250 and not to exceed \$1,000.00, plus court costs

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this ordinance, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Paullina to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

Section 20. Conflicting Regulations

In accordance with Section 329.8, Code of Iowa, where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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Section 21. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 22. Effective Date

This ordinance shall be in effect from and after its adoption by the governing body and publication and posting as required by law, as provided for in Chapter 380.6 and 380.7, Iowa Code.

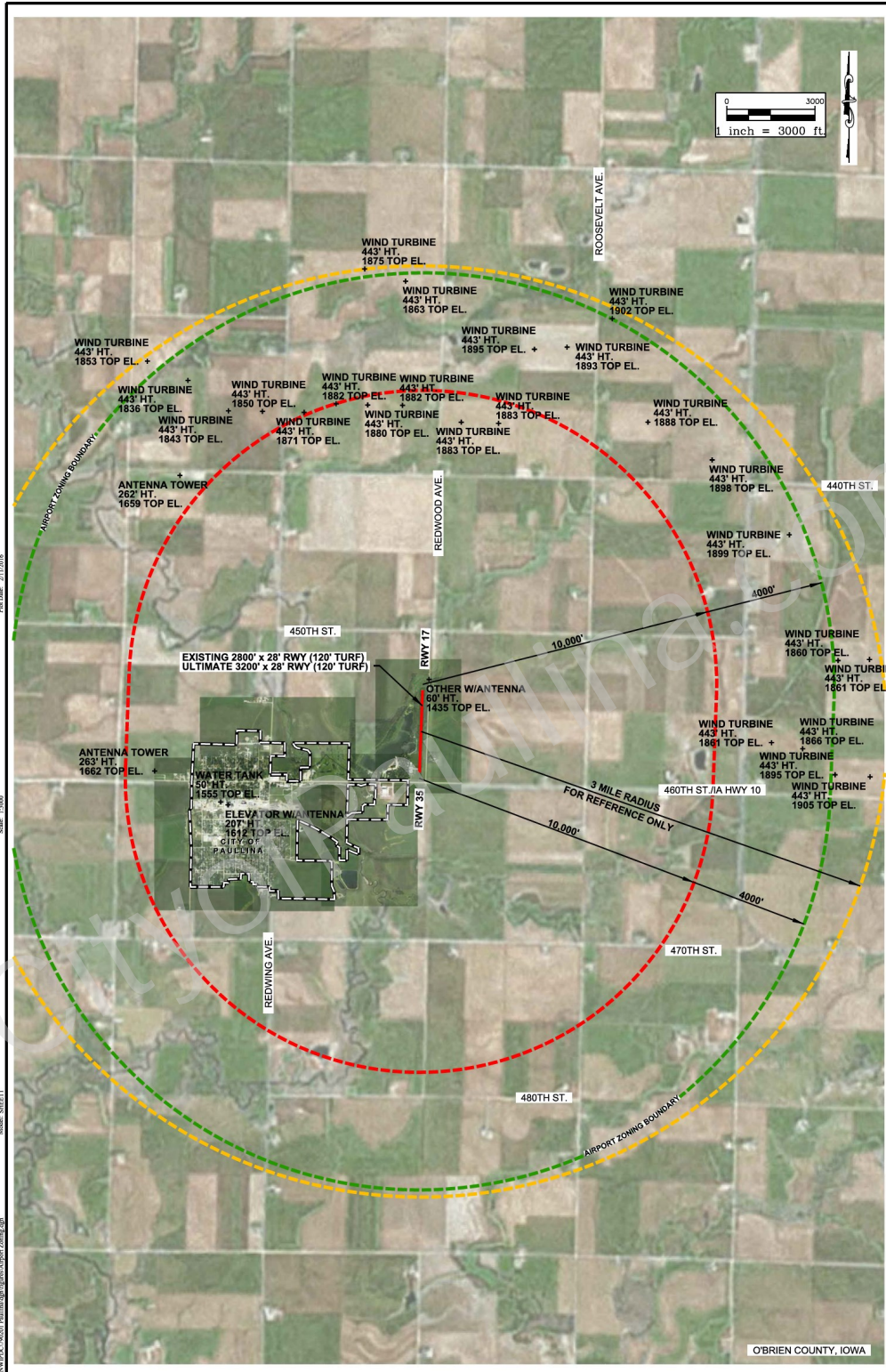
(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

Editor's Note: City of Paullina Approved as Ordinance #45 on April 18, 2016.

Exhibit A

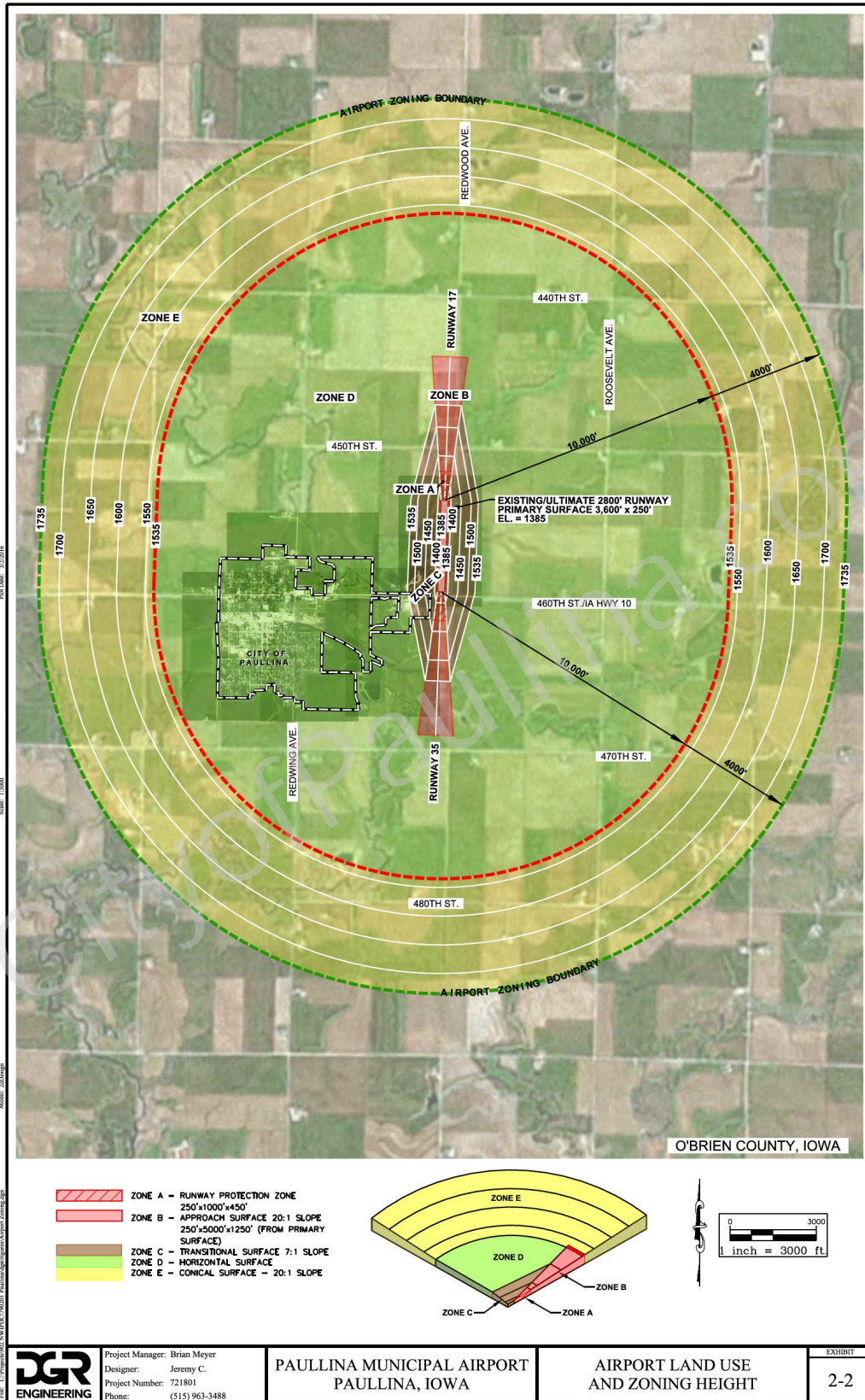
1. Paullina Municipal Airport Zoning Boundary Map
2. Paullina Municipal Airport Land Use & Height Overlay Zoning Map

TITLE VIII



	Project Manager: Brian Meyer	PAULLINA MUNICIPAL AIRPORT PAULLINA, IOWA	AIRPORT LAND USE AND ZONING HEIGHT	EXHIBIT
	Designer: Jeremy C.			1-2
	Project Number: 721801			
	Phone: (515) 963-3488			

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APPENDIX

APPENDIX

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APPENDIX

APPENDIX A - USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this code.

I. DISTRIBUTION OF COPIES.

- 1. **OFFICIAL COPY.** The "OFFICIAL" copy of the Code of Ordinances must be kept by the city clerk and should be identified as the "OFFICIAL COPY".
- 2. **DISTRIBUTION.** Other copies of the code should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the city as well as reference centers such as the city library, county law library and perhaps the schools and news media.
- 3. **SALE.** We do not recommend the sale or distribution of copies in a general fashion as our experience indicates that indiscriminate distribution tends to result in out-dated codes being used or misused.
- 4. **RECORD OF DISTRIBUTION.** The city clerk should be made responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. It is the obligation of each official, elected or appointed, to return to the city upon leaving office all documents, records and other materials pertaining to his or her office including this Code of Ordinances.

(Code of Iowa, Section 372.13(4))

II. NUMBERING SYSTEM.

The Code of Ordinances is divided into eight (8) subject areas called "Titles" which generally correspond with the eight major budget categories established by the Iowa State City Finance Committee. These titles are:

Each Title may be further divided into CHAPTERS, ARTICLES, SECTIONS, SUBSECTIONS and PARAGRAPHS. Below is an illustration of the numbering system:

- TITLE (Community Protection)-----2.
- CHAPTER (Law Enforcement)-----1-
- ARTICLE (Beer and Liquor Control)-----3.
- Section (Definitions)-----01

III. AMENDING THE CODE OF ORDINANCES.

The Code of Ordinances contains most of the laws of the city as of the date of its adoption and is continually subject to amendment to reflect changing policies of the council, mandates of the state, or decisions of the courts. Amendments to the Code of Ordinances can only be accomplished by the adoption by the council of an ordinance.

(Code of Iowa, Sec. 380.2)

APPENDIX

The following form of ordinance is recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new PARAGRAPH, SUBSECTION, SECTION, ARTICLE, or CHAPTER, as follows:

ORDINANCE NO.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 200_, BY ADDING A NEW (CHAPTER) (ARTICLE) (SECTION) (SUBSECTION) (PARAGRAPH), PROVIDING FOR (here provide a general statement of subject matter, etc.).

BE IT ENACTED by the City Council of the City of (Name of City), Iowa:

SECTION 1. The Code of Ordinances of the City of _____, Iowa, 200_ is amended by adding a new (Chapter) (Article) (Section) (Subsection) (Paragraph) numbered __, entitled _____ which is hereby adopted to read as follows:

- _.01 PURPOSE: etc.
- _.02 DEFINITIONS: etc.

SECTION 12. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 13. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 14. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the __ day of _____,
200_, and approved this __ day of _____, 200_.
_____MAYOR

ATTEST:
CITY CLERK

I certify that the foregoing was published as Ordinance No. __ on the __ day of _____, 200_.

Signed
CITY CLERK

APPENDIX

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting PARAGRAPHS, SUBSECTIONS, SECTIONS, ARTICLES OR CHAPTERS as follows:

ORDINANCE NO.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 200_, BY REPEALING (CHAPTER __) (ARTICLE __) (SECTION __) (SUBSECTION __) (PARAGRAPH __) PERTAINING TO (here insert a general statement of the subject matter being repealed, etc.).

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The Code of Ordinances of the City of _____, Iowa, 200_, is hereby amended by repealing (CHAPTER) (SECTION) (SUBSECTION) (here insert a general statement of the subject matter being repealed).

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the __ day of _____, 200_, and approved this __ day of, 200_.

MAYOR

ATTEST:
CITY CLERK

I certify that the foregoing was published as Ordinance No. __ on the __ day of _____, 200_.

Signed
CITY CLERK

APPENDIX

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted or changed as follows:

ORDINANCE NO.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 200__, BY AMENDING PROVISIONS PERTAINING TO (here insert a general statement of the subject matter being amended).

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. (CHAPTER) (ARTICLE) (SECTION) (SUBSECTION) (here insert no.) is repealed and the following adopted in lieu thereof:

(here restate in full that provision being amended as amended)

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be judged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the __ day of _____, 200__, and approved this __ day of _____, 200__.

MAYOR

ATTEST:
CITY CLERK

I certify that the foregoing was published as Ordinance No. __ on the __ day of _____, 200__.

Signed
CITY CLERK

APPENDIX

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

We strongly recommend a simple numerical sequence be used in assigning ordinance numbers to ordinances amending the Code of Ordinances. For example, if the ordinance adopting the Code of Ordinances was No. 163 we would suggest that the first ordinance passed changing, adding to or deleting from the code be assigned the number 164; the next ordinance be assigned the number 165 and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

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APPENDIX

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the city will be adopting which may be, but do not have to be, incorporated in the Code of Ordinances. These ordinances include ordinances (1) establishing grades of streets or sidewalks, (2) vacating streets or alleys, (3) authorizing the issuance of bonds and (4) zoning ordinances.

(Code of Iowa, Sec. 380.8)

If such ordinances are to be included in the Code of Ordinances the foregoing suggested form of ordinance amending the Code of Ordinances is appropriate, however if such ordinances are not to be included in the Code of Ordinances we suggest the following form of ordinance be used.

ORDINANCE NO.

AN ORDINANCE (here state clearly the subject matter of the ordinance)

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. PURPOSE.

SECTION _.

SECTION _.

SECTION _ REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: ____, ____, ____.

SECTION _ SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION _ WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the __ day of _____, 200__, and approved this __ day of _____, 200__.

MAYOR

ATTEST:

CITY CLERK

APPENDIX

I certify that the foregoing was published as Ordinance No. __ in the _____ on the __ day of _____, 200__.

Signed

CITY CLERK

These ordinances should be numbered in the same numerical sequence as described for ordinances amending the Code of Ordinances (164, 201, 318) and placed in their proper sequence in the ordinance book.

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APPENDIX

SUGGESTED FORM

DANGEROUS BUILDINGS FIRST NOTICE

TO: (Name and address of owner, agent or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within __ days from service of this notice or file written request for a council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, or file written request for hearing within the time prescribed herein, the city will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice:
City of Paullina, Iowa
By

(enforcement officer)

APPENDIX

SUGGESTED FORM

**DANGEROUS BUILDINGS
NOTICE OF HEARING**

TO: (Name and address of the owner, agent or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City of Paullina, Iowa, will meet on the ____ day of o'clock __.m. in the Council Chambers of the City Hall, at (address of city hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter 1 of Division 3, Title Two of the Code of Ordinances of Paullina, Iowa, 1982 and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice:
City of Paullina, Iowa
By
(enforcement officer)

APPENDIX

SUGGESTED FORM

**DANGEROUS BUILDINGS
RESOLUTION
(and order)**

BE IT RESOLVED, by the City Council of the City of Paullina, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 200____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of notice upon the said (name of owner or agent); and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council;

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate;

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or his or her agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within __ days after the service of this Order upon him; and

BE IT FURTHER RESOLVED that the enforcement officer by and is hereby directed to serve a copy of this Order upon the said property owner or agent named above; and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt. Adopted this _____ day of _____, 200____.

MAYOR

Attest:
CITY CLERK

APPENDIX

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the city to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

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APPENDIX

SUGGESTED FORM

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, a police authority will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice:
The City of Paullina, Iowa
By
(designate officer initiating notice)

APPENDIX

NOTICE TO ABATE NUISANCE

TO:

It has been determined that a nuisance exists on your property as follows:

Location:

Nuisance:

Acts Necessary to Abate:

You are hereby notified to abate the nuisance or file a written request for a hearing with the City Council within _____ days from service of this notice.

In the event you fail to abate or cause to be abated the above nuisance as directed, and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against you as provided by law.

City of Paullina

By
Mayor

Date of Notice:

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APPENDIX

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