

CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Harlan, Iowa, 2006.

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Harlan, Iowa.
3. “Clerk” means the city clerk of Harlan, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Harlan, Iowa, 2006.
6. “Council” means the city council of Harlan, Iowa.
7. “County” means Shelby County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Harlan, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. "Shall" imposes a duty.
16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. "State" means the State of Iowa.
18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

1.07 EXTENSION OF AUTHORITY. Whenever a City official, 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 as directed by the Mayor or Council.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing

and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

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

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

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of six (6) Council Members, one from Lincoln Township, one from Center Township, and one Council Member from each of four (4) wards as established by this Code of Ordinances, elected for overlapping terms of four (4) years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two (2) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 1975-7 adopting a charter for the City was passed and approved by the Council on June 17, 1975.

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CHAPTER 3
BOUNDARIES

3.01 DIVISION INTO WARDS. The City is divided into four (4) wards described as follows:

(Code of Iowa, Sec. 372.4 & 372.13[7])

1. First Ward. Commencing at the north City limit of 12th Street; thence south on 12th Street to Hill Street; thence east on Hill Street to 10th Street; thence south on 10th Street to Willow Street; thence east on Willow Street to 8th Street; thence north on 8th Street to Farnam Street; thence east on Farnam Street to 5th Street; thence north on 5th Street to Victoria Street; thence east on Victoria Street to Exchange Street; thence northeast on Exchange Street to 1st Street; thence north on 1st Street to Cyclone Avenue; thence east on Cyclone Avenue to the east City limit; thence north along the east City limit to the north City limit; thence west along the north City limit to the point of beginning at 12th Street.

2. Second Ward. Commencing at the north City limit of 12th Street; thence south on 12th Street to Hill Street; thence east on Hill Street to 10th Street; thence south on 10th Street to Willow Street; thence west on Willow Street to 21st Street; thence south on 21st Street to Pine Street; thence west on Pine Street to Highway 59; thence south on Highway 59 to Chatburn Avenue; thence west on Chatburn Avenue to the west City limit; thence north along the west City limit to the north City limit; thence east along the north City limit to the point of beginning at 12th Street.

3. Third Ward. Commencing at the south City limit of 12th Street; thence north on 12th Street to Pine Street; thence west on Pine Street to 16th Street; thence north on 16th Street to Willow Street; thence west on Willow Street to 21st Street; thence south on 21st Street to Pine Street; thence west on Pine Street to Highway 59; thence south on Highway 59 to Chatburn Avenue; thence west on Chatburn Avenue to a point where the west City limit first goes south; thence south along the west City limit to the south City limit; thence east along the south City limit to the point of beginning at 12th Street.

4. Fourth Ward. Commencing at the south City limit of 12th Street; thence north on 12th Street to Pine Street; thence west on Pine Street to 16th Street; thence north on 16th Street to Willow Street; thence east on Willow Street to 8th Street; thence north on 8th Street to Farnam Street;

thence east on Farnam Street to 5th Street; thence north on 5th Street to Victoria Street; thence east on Victoria Street to Exchange Street; thence north east on Exchange Street to 1st Street; thence north on 1st Street to Cyclone Avenue; thence east on Cyclone Avenue to the east City limit; thence south along the east City limit to the south City limit; thence west along the south City limit to the point of beginning at 12th Street.

(Ord. 2011-05 – Aug. 11 Supp.)

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations

4.05 Municipal Infraction Proceedings
4.06 Alternative Relief
4.07 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense – Not to exceed \$1,000.00

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

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.
 - B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
 - (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
 - (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - (3) The violation does not continue in existence for more than eight (8) hours.

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

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.

4.05 MUNICIPAL INFRACTION PROCEEDINGS. The following proceedings shall apply to the use of municipal infractions:

1. The matter shall be tried before a magistrate, a district associate judge or a district judge in the same manner as a small claim. The matter shall only be tried before a judge in district court if the total amount of civil penalties assessed exceeds the jurisdictional amount for small claims set forth in Section 631.1 of the Code of Iowa.
2. The City has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof shall be by clear, satisfactory and convincing evidence.
3. The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the City and produce evidence or witnesses on the defendant's behalf.
4. The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.
5. The defendant may answer by admitting or denying the infraction.
6. If a municipal infraction is proven, the court shall enter a judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths	5.07 Conflict of Interest
5.02 Bonds	5.08 Resignations
5.03 Duties: General	5.09 Removal of Appointed Officers and Employees
5.04 Books and Records	5.10 Vacancies
5.05 Transfer to Successor	5.11 Gifts
5.06 Meetings	5.12 Residency Requirements

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

- A. Mayor
- B. City Clerk
- C. Members of all boards, commissions or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)

2. Bonds Approved. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)
3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])
4. Record. The Clerk shall keep a book, to be known as the “Record of Official Bonds” in which shall be recorded the official bonds of all City officers, elective or appointive.
(Code of Iowa, Sec. 64.24[3])

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

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

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

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

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

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

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.
(Code of Iowa, Sec. 21.4)
2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)
3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and

information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

5.07 CONFLICT OF INTEREST.

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

(Code of Iowa, Sec. 362.5)

A. 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])

B. 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])

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

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

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

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

E. Newspaper. The designation of an official newspaper.

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

F. 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])

G. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.

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

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

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

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

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

J. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1500.00) in a fiscal year.

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

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

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

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

2. Issues Before the Council. For the purposes of this subsection, a conflict of interest is:

A. A conflict of prospective financial benefit from the issue or person or organization involved with the issue;

B. A special relationship with the person involved being either a professional relationship or spouse, parent or child or parent or child of spouse or cohabitant of household;

C. By virtue of membership on a board of officers of any group or organization coming before the Council; or

D. Adjacent property owner if the matter is relevant to the issue or there is any opinion as to whether the relationship of neighbor and City official would be impaired by his or her participation.

Any Council Member, Board or Committee member or the Mayor shall, when confronted with a conflict of interest, announce the conflict before the agenda item is considered at a meeting or as soon as identified at the meeting. Any individual with a conflict of interest shall be entitled to keep his or her seat at the committee meeting and be present at the hearing and may be involved in the discussion and deliberation on the issue, despite a conflict of interest, but may not move or second or vote on the matter.

3. Rental of City Property. Notwithstanding the provisions of Chapter 23A of the Code of Iowa, and pursuant to the authority granted to the City by that chapter, the Council and other City officials in their respective capacities have the power to grant permission for use and rental by other persons or organizations of any property owned by the City.

4. Competition with Private Enterprise. Notwithstanding the provisions of Chapter 23A of the Code of Iowa, any services provided by or available by the City for the use of or benefit of the public shall be

permissible to the extent that they do not compete with private enterprise, if there is no known existence of available service through the private sector within the City. Knowledge of existence of private enterprise available within the City, for the purpose of this subsection, shall be by:

- A. Notification in writing to the Council or Mayor or other City official of the existence of that availability by the private sector to perform such service that would otherwise be performed by the City; or
- B. By actual knowledge of a member of the Council, Mayor or other City official.

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

5.12 RESIDENCY REQUIREMENTS.

1. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

2. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

3. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

4. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

5. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

6. Boards and Commissions. Appointees to Boards and Commissions set out in this Code of Ordinances shall reside within the corporate limits of the City, unless otherwise specified within a specific chapter of this Code of Ordinances.

7. *(Repealed by Ord. No. 2016-04 – Sep-16 Supp.)*

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than twenty-five (25) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

3. **Petty Cash Fund.** The finance officer shall be custodian of a petty cash fund not to exceed three hundred dollars (\$300.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the

proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Proposal Prepared. The finance officer shall assist the City Administrator and all departments in the preparation of their annual budget and make available information on past budgets, as well as providing current income and expenses.

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

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof. Checks of \$5,000.00 or more require additional signature of the Mayor or a Council Member.

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

URBAN RENEWAL

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.

ORDINANCE NO.	ADOPTED	NAME OF AREA
1989-3	1989	Original Project Area
1992-02	July 7, 1992	Amendment No. 1 Area
2002-01	March 19, 2002	Amendment No. 4 Area
2005-04	March 15, 2005	Amendment No. 5 Area
2005-05	March 15, 2005	Laurel Street Urban Renewal Area
2006-10	November 21, 2006	Amendment No. 6 Area
2008-08	April 15, 2008	Amendment No. 7 Area
2009-01	January 6, 2009	Amends No. 6 and No. 7 Descriptions

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CHAPTER 9

URBAN REVITALIZATION

9.01 DESIGNATION OF REVITALIZATION AREA. In accordance with Chapter 404 of the Code of Iowa, all property within the corporate limits of the City of Harlan, Iowa, is hereby designated as an urban revitalization area under the act, which shall be known as the Harlan Revitalization Area. The Urban Revitalization Plan for the City, dated April 19, 2005, on file in the office of the City Administrator, is declared to be the Urban Revitalization Plan for the area.

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

(Code of Iowa, Sec. 376.2)

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, except for supervisory duties delegated to the City Administrator, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

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

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

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

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.

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

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within fourteen days after passage. However, the Mayor may not veto an ordinance, amendment or resolution if the Mayor was entitled to vote on such measure at the time of passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.
6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the Mayor Pro Tem, and the Mayor also appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. City Treasurer
2. City Attorney
3. Police Chief
4. Utility Board of Trustees
5. Parks and Recreation Board
6. Library Board of Trustees
7. Airport Commission
8. Health Officer
9. Veterans Memorial Auditorium Commission
10. Historic Preservation Commission
11. Zoning Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is twenty-four hundred dollars (\$2,400.00) per year plus five dollars (\$5.00) for each Council committee meeting attended. Effective January 1, 2012, the salary of the Mayor is thirty-six hundred dollars (\$3,600.00) per year.

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

(Ord. 2011-07 – Oct. 11 Supp.)

15.05 VOTING. So long as the City is governed by the Mayor-Council form of government composed of a Mayor and a Council consisting of two (2) Council members elected at large, and one (1) Council member from each of four wards, the Mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the Council alone.

(Code of Iowa, Sec. 372.4)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of six (6) Council Members, one from Lincoln Township, one from Center Township, and one Council Member from each of four (4) wards as established by this Code of Ordinances, elected for overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or

officers not otherwise provided for by State law or the Code of Ordinances.

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars (\$25,000.00) 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.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. **Regular Meetings.** The regular meetings of the Council are on the first and third Tuesdays of each month in the Council Chambers at City Hall at such hour as the Council may from time to time determine. If such day falls on a legal holiday, the meeting is held on the following Tuesday at the same time unless a different day or time is determined by the Council.
2. **Special Meetings.** Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the 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. 372.13[5])

3. Quorum. A majority of all Council members is a quorum.

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

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

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

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

1. City Clerk
2. City Administrator
3. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is twenty-five dollars (\$25.00) for each meeting of the Council attended, payable annually. Effective January 1, 2012, the salary of each Council member is fifty dollars (\$50.00) for each meeting of the Council attended, payable annually.

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

(Ord. 2011-07 – Oct. 11 Supp.)

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures

18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal
18.14 City Funds

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

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

18.02 POWERS AND DUTIES: GENERAL. The Clerk, or in the Clerk's absence or inability to act, the Deputy Clerk, has the powers and duties as provided in this chapter, this Code of Ordinances and the law. The Clerk is directly responsible to the City Administrator and/or the Council and shall assist the Mayor in any of the Mayor's duties as requested by the Mayor or prescribed by ordinance and as instructed by the Council. The Clerk shall perform such other duties as directed by the City Administrator and/or Council.

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

(Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

(Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which is the word "SEAL" and around the margin of which are the words "CLERK" and "CITY OF HARLAN."

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

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

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

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

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

4. Special Assessments. Keep a separate account of all money received from special assessments.

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Mayor shall appoint, subject to Council approval, a City Treasurer to serve for a term of two (2) years.

19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

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

1. Reconciliation. Reconcile the Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation

20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall, upon request, give a legal opinion in writing upon all questions of law relating to City matters submitted by the Mayor, City Administrator or Clerk.

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

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

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

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

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

CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment
21.02 Qualifications
21.03 Powers and Duties
21.04 Surveys, Plats and Estimates

21.05 Supervision of Public Improvements
21.06 Supervision of Work Programs
21.07 Employment and Dismissal of Personnel
21.08 Purchasing Agent

21.01 APPOINTMENT. The City Administrator shall be appointed by a majority of the City Council at a regular meeting of the Council, and said Administrator shall hold office at the pleasure of the Council, and shall be subject to removal by a majority vote thereof, subject to the terms and conditions of any existing or future employment agreement executed between the City Council and the Administrator. The Administrator shall receive such annual salary as the Council shall, from time to time, determine by agreement and/or approve by Resolution, and time of payment shall be fixed in accordance with the other City employees. The City Administrator is directly responsible to the Council and shall assist the Mayor in any duties as requested by the Mayor or prescribed by Ordinance and as instructed by the Council.

(Ord. 2007-06 – Oct. 07 Supp.)

21.02 QUALIFICATIONS. The City Administrator shall have a record of experience in administrative and management duties in related fields and other qualifications as required by the Council.

21.03 POWERS AND DUTIES. The City Administrator shall:

1. Have the general supervision over all City departments and employees including the Police Department and Police Chief and be responsible for administering the Police Department budget and purchases in accordance with the guidelines of the Council. (However, nothing in this subsection shall be construed to interfere with the authority and power of the Library Board of Trustees, the Municipal Utilities Board of Trustees, the Airport Commission, and the Veterans Memorial Auditorium Commission to employ, discharge, and supervise employees within their respective departments pursuant to the provisions of this Code of Ordinances.)
2. Utilize the City Attorney for any City business when needed.
3. Coordinate and direct all City services provided through the various departments.

4. Study possible joint arrangements with municipal boards and commissions, make recommendations for such arrangements as are mutually acceptable and coordinate these activities as agreed upon.
5. Assist in the carrying out of the comprehensive plan and assist in all other forms of planning within the City government.
6. Act for the City in the exercise and execution of all policies and programs whereby the City is involved on a joint basis with any other governmental subdivision, including any subdivision of the government of the State or the United States.
7. Be responsible for all accounting and accounting procedures and prepare and administer the City's annual operating budget by utilizing the City Clerk.
8. Be responsible for the administration of all ordinances, resolutions, Mayor and Council policies and directives and supervise the City's administrative policies and procedures.
9. Continuously study the City government's operating procedures, organizations and facilities and make recommendations of fiscal or other policies to the Mayor and Council whenever necessary and keep the Mayor and Council informed on the progress of its programs and the status of its policies.
10. Contract with public or private enterprise for emergency repair services without prior, formal Council action or approval. (If possible, the City Administrator shall first informally contact as many Council Members as possible explaining an intended action and why said action cannot wait for formal Council action. However, the failure by the City Administrator to first canvas Council Members shall, in no way, mitigate his or her power to bind the City by contract, verbal or written, in emergency repair situations.)

21.04 SURVEYS, PLATS AND ESTIMATES. The City Administrator shall make or cause to be made all the necessary surveys, plats and drawings and estimates, together with suitable specifications for all public works, when ordered by the Council. The City Administrator shall be responsible for surveys of streets, alleys and public grounds, the lines of which shall be marked in some substantial and permanent manner and make a plat of all such surveys which shall be filed in the office of the City Administrator together with the usual field notes. All surveys, plats, estimates and other documents shall be kept on file in some convenient place and manner and shall be properly indexed and shall remain the property of the City.

21.05 SUPERVISION OF PUBLIC IMPROVEMENTS. The City Administrator shall, when directed by the Council, supervise the construction of all public improvements under the jurisdiction of the Council.

21.06 SUPERVISION OF WORK PROGRAMS. The City Administrator shall be in charge of all public works of the City, under the jurisdiction of the Council, whether in the nature of new construction, maintenance or repair.

21.07 EMPLOYMENT AND DISMISSAL OF PERSONNEL. The City Administrator shall have the power and authority to recommend to the Council the employment of such employees as the City Administrator may deem necessary and which are authorized by the Council and to recommend to the Council the discharging of employees when found incompetent or derelict in their duties and to recommend to the Council such disciplinary actions as provided in the City's *Personnel Rules and Regulations*. However, nothing in this subsection shall be construed to interfere with the authority and power of the Library Board of Trustees, the Municipal Utilities Board of Trustees, the Airport Commission and the Veterans Memorial Auditorium Commission to employ, discharge, and supervise employees within their respective departments pursuant to the provisions of this Code of Ordinances.

21.08 PURCHASING AGENT. The City Administrator shall formulate the yearly budget and be responsible for the purchasing of goods, materials and supplies needed by the City. The City Administrator shall enter into consultation with department heads to delegate responsibility to department heads to determine needs for all departments of the City, formulate the technical and financial aspects of bids, submit contracts for City needs to the Council for approval and authorization, advertise for bids on the basis of the contracts and enforce quality standards for goods purchased.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.08 Expenditures
22.02 Library Trustees	22.09 Annual Report
22.03 Qualifications of Trustees	22.10 Injury to Books or Property
22.04 Organization of the Board	22.11 Theft
22.05 Powers and Duties	22.12 Notice Posted
22.06 Contracting with Other Libraries	22.13 Limitation of Service
22.07 Nonresident Use	

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of eight (8) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for four (4) years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every year, in such manner as to stagger the terms. No individual shall serve more than two (2) consecutive terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Personnel Rules and Regulations. To ensure compliance by the librarian and all library employees with the City of Harlan *Personnel Rules and Regulations Handbook* for all City employees as amended from time to time by the Council.
6. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
7. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
8. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
9. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management

of the Library and the business of the Board, fixing and enforcing penalties for violations.

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

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

12. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

(Code of Iowa, Ch. 661)

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

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

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for

governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.
2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.
3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.
4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

22.13 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Board, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Board, any person who has served two consecutive Board terms shall not be eligible for reappointment to the Board for a period of one (1) year after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Board member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and appropriate person within forty (40) days after the date the vacancy occurs. Any former Board member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed. *(Ord. 2006-07 – July 06 Supp.)*

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties
23.06 Limitation of Service

23.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government. The City Administrator and the Manager of the Harlan Municipal Utilities shall be *ex officio* members of the Commission. Four (4) members shall constitute a quorum for the transaction of business.

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be four (4) years. The expiration date for all members of the Commission shall be July 1, provided, however, that all members shall hold over until their successors are appointed and approved.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

3. Annual Meeting and Report. A joint meeting of the Council and Commission shall be held annually in December for the purpose of a general conference on plans and ways and means for development of the City, and the Commission shall make a report each year to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the expenditure of funds, the Commission may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

(Code of Iowa, Sec. 392.1)

5. Comprehensive Plan. The Commission shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the City or of any land outside thereof, which in the opinion of the Commission, bear relation to the comprehensive plan and shall bring its studies and recommendations to the attention of the Council and may also publish such studies and recommendations.

(Code of Iowa, Sec. 414.3)

6. Comprehensive Plan: Preparation. For the purpose of making a comprehensive plan for the physical development of the City, the Commission shall make careful and comprehensive studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

(Code of Iowa, Sec. 414.3 & 392.1)

7. Comprehensive Plan: Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the Commission shall hold

at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the City not less than seven (7) or more than twenty (20) days before the date of hearing. However, in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. The adoption of the plan or part or amendment thereof shall be by resolution of the Commission carried by the affirmative vote of not less than two-thirds (2/3) of the members of the Commission. After adoption of said plan by the Commission an attested copy thereof shall be certified to the Council and the Council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the Council, the said plan until subsequently modified or amended as herein authorized shall constitute the official City plan.

(Code of Iowa, Sec. 414.1, 414.6 & 392.1)

8. Comprehensive Plan: Amendments. When the comprehensive plan has been adopted, no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Commission for its recommendations. If the Commission disapproves the proposed change it may be adopted by the Council only by the affirmative vote of at least three-fourths (3/4) of the members of the Council.

(Code of Iowa, Sec. 414.4, 414.5 & 392.1)

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

(Code of Iowa, Sec. 414.6)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

23.06 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Commission, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Commission, any person who has served two consecutive Commission terms shall not be eligible for reappointment to the Commission for a period of one (1) year after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Commission member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and appropriate person within forty (40) days after the date the vacancy occurs. Any former Commission member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed.

(Ord. 2006-07 – July 06 Supp.)

CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created
24.02 Board Organization
24.03 Duties of the Board
24.04 Reports

24.05 Rules
24.06 Violation of Board Rules
24.07 Limitation of Service

24.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

24.02 BOARD ORGANIZATION. The Board shall consist of five (5) members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of four (4) years, commencing on July 1 of the year of appointment. The Board shall choose from its membership its Chairperson and Vice Chairperson every two (2) years. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

24.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the personnel and expendable supplies devoted to recreation programs, subject to the City personnel rules and to the limitation of expenditures for salaries and supplies set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall cooperate with the City Administrator in the allotment of time of City employees if needed for the implementation of the recreation program. The Board shall order recreation supplies by the procedures established by the Council for all departments of the City, and payment will be made by warrant check written by the Clerk for invoices submitted and approved by the Board.

24.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

24.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

24.06 VIOLATION OF BOARD RULES. Violation of a Board rule may be cause for denial of use of the facility or participation in a program, but such denial which extends more than one day may be appealed to the Board or to the Council for a hearing.

24.07 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Board, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Board, any person who has served two consecutive Board terms shall not be eligible for reappointment to the Board for a period of one (1) year after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Board member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and appropriate person within forty (40) days after the date the vacancy occurs. Any former Board member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed. *(Ord. 2006-07 – July 06 Supp.)*

CHAPTER 25

UTILITY BOARD OF TRUSTEES

25.01 Purpose	25.08 Accounting
25.02 Board Established	25.09 Discriminatory Rates Illegal
25.03 Appointment of Trustees	25.10 Discontinuance of Board
25.04 Compensation	25.11 Chief Executive Officer
25.05 Vacancies	25.12 Liability for Failure to Supply
25.06 Powers and Duties of the Board	25.13 Street Lighting by Municipal Utility
25.07 Control of Funds	25.14 Location of Other Wires and Poles

25.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned Harlan Municipal Utilities by a Board of Trustees.

25.02 BOARD ESTABLISHED. Pursuant to an election held November 7, 1961, the management and control of the municipally owned electric, water and gas utilities were placed in the hands of a Board of Trustees. Pursuant to a City-wide referendum held May 16, 1995, a telecommunications utility for the City was established to be managed and controlled by the Board of Trustees of the Harlan Municipal Utilities.

(Code of Iowa, Sec. 388.2)

25.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five (5) persons to serve as trustees for staggered six (6) year terms. The terms shall be deemed to commence on November 21 of the year of appointment. No public officer or salaried employee of the City may serve on the Utilities Board. No member shall serve more than two (2) consecutive six-year terms.

(Code of Iowa, Sec. 388.3)

25.04 COMPENSATION. The Council shall by resolution set the compensation of Board members.

(Code of Iowa, Sec. 388.3)

25.05 VACANCIES. An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

(Code of Iowa, Sec. 388.3)

25.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the City Utilities it administers, including the establishment by resolution of all charges and rates for service, with the following exceptions:

(Code of Iowa, Sec. 388.4)

1. Taxes, Ordinances and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

(Code of Iowa, Sec. 388.4[1])

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

(Code of Iowa, Sec. 388.4[2])

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

(Code of Iowa, Sec. 388.4[3])

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

(Code of Iowa, Sec. 388.4[4])

25.07 CONTROL OF FUNDS. The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

(Code of Iowa, Sec. 388.5)

25.08 ACCOUNTING. Utility moneys are held in a separate utility fund, with a separate account or accounts for each utility.

(Code of Iowa, Sec. 388.5)

25.09 DISCRIMINATORY RATES ILLEGAL. The City Utilities may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, Code of Iowa.

(Code of Iowa, Sec. 388.6)

25.10 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the Utilities Board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utilities it administers are disposed of or leased for a period of over five (5) years.

(Code of Iowa, Sec. 388.2)

25.11 CHIEF EXECUTIVE OFFICER. The Chief Executive Officer of the utilities shall:

1. Have control of the clerical department of the gas, electric and water systems and make the collection of the bills when due;
2. Issue orders for the turning off and turning on of all services, for new installations, for nonpayment of service or for any other purpose when the service is disconnected;
3. Keep a correct account of all money received and expended by the gas, electric and water departments and for what purposes, and keep an account with each customer of the systems for all gas, water and electricity used and other materials, supplies and labor furnished to the customer;
4. Have such other powers and perform such other duties in connection with the gas, electric and water systems as may be required by the Board.

25.12 LIABILITY FOR FAILURE TO SUPPLY. The Harlan Municipal Utilities does not guarantee a constant supply of gas to any customer and shall not be liable for damages for any failure to supply such utility, nor shall it be liable for any claim or damage by reason of breaking any service pipes, stop cocks, regulator, meter or other equipment or, if for any reason the supply of gas is shut off, to make repairs, connections or extensions or for any purpose that may be found necessary. It shall, however, attempt to maintain constant service to those not on the interruptible rate. The right is reserved to cut off the supply of gas at any time.

25.13 STREET LIGHTING BY MUNICIPAL UTILITY. It is lawful for the Municipal Utilities to cause to be set within the limits of the public streets and alleys of the City such poles as it may deem necessary and to adjust conducting wires to and along said poles for the purpose of lighting the City with electricity, and the person or persons putting up and adjusting said wires are hereby authorized and empowered to cut off and remove such limbs of trees or other obstructions as may be necessary for the free and uninterrupted use of said wires for the purpose of lighting the City with electricity.

25.14 LOCATION OF OTHER WIRES AND POLES. All telephone, telegraph, and other wires and cables, and the poles to support the same, shall be constructed, erected, maintained and used upon and along the alleys of the City as far as practicable, and the Council shall designate the places for and the manner of erecting, maintaining and using said wires, cables and poles. Any person desiring to construct, build or erect any such wires, cables, or poles

upon, along, or under any street or alley of the City shall first apply to the Council for its approval and permission to do so and shall place the same where the Council shall direct.

CHAPTER 26

HISTORICAL PRESERVATION COMMISSION

26.01 Purpose	26.09 Demolitions of Structures in Historic Districts
26.02 Definitions	26.10 Alteration of Structures in Historic Districts
26.03 Commission Established	26.11 Procedure For Review of Plans
26.04 Membership/Compensation	26.12 Certificate of Economic Hardship
26.05 Term of Office	26.13 Regulation Permit
26.06 Vacancies	26.14 Appeals
26.07 Powers and Duties	26.15 Limitation of Service
26.08 Identification and Designation of Historic Districts	

26.01 PURPOSE. The purpose of this chapter is to:

1. Promote the educational, cultural, economic and general welfare of the public through the protection, enhancement and perpetuation of districts and sites of historic and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving districts and sites of historical, architectural and cultural significance;
3. Stabilize and improve property values;
4. Foster civic pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the attractiveness of the City to home buyers, tourists, visitors and shoppers and thereby support and promote business, commerce, industry and providing economic benefit to the City;
6. Strengthen the economy of the City; and
7. Promote the use of districts and sites of historic and cultural significance as sites for the education, pleasure and welfare of the City.

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

1. "Certificate of appropriateness" means a document evidencing approval by the Historic Preservation Commission of a proposal to make material change of appearance which must be obtained before a "regulated permit" may be issued.
2. "Certificate of economic hardship" means a certificate issued by the Historical Preservation Commission authorizing a material change of appearance even though a certificate of appropriateness has previously been denied.

3. “Commission” means the Harlan Historical Preservation Commission, as established by this chapter.
4. “Historical district” means an area that contains contiguous pieces of property under diverse ownership which:
 - A. Are significant to American history, architecture, archaeology and culture;
 - B. Possess integrity of location, design, setting, materials, workmanship, feel and association;
 - C. Are associated with events that have been a significant contribution to the broad patterns of our history;
 - D. Are associated with the lives of persons significant to our past;
 - E. Embody the distinctive characteristics of a type, period, method of construction, or represent the work of a master, or possess high artistic value, or represent a significant and distinguishable entity whose components may lack individual distinction; or
 - F. Have yielded, or may be likely to yield, information important to prehistory and history.
5. “Historic site” means a structure or building which:
 - A. Is associated with events that have made a significant contribution to the broad patterns of our lives;
 - B. Is associated with the lives of persons significant in our past;
 - C. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic value, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - D. Has yielded, or may be likely to yield, information important to prehistory and history.
6. “Material change of appearance” means any change, alteration or modification of the external appearance of a building, improvement, or property within an historic district and specifically limited to:
 - A. Changes in the exterior size, configuration, fenestration or other structural features of the property;

- B. Demolition or removal of all or any part of an historic or architecturally significant structure;
- C. Any alteration in the size, location or appearance of any sign on the property.

This definition pertains only to material changes of appearance which are visible from the public way, not to include alleys. Furthermore, nothing in this definition is to be construed to prohibit or limit normal repairs or maintenance which do not involve alterations or changes in the external appearance of property. For individual historic districts, the definition of “material change of appearance” may be expanded to include additional activities for which a certificate of appropriateness is required. Such additional activities may be delineated in the ordinance designating an individual district or by amending the ordinance designating an individual district. The imposition of any additional activities requiring certificates of appropriateness require the approval of the Council and the prior recommendation of the Commission and the State Division of Historic Preservation.

7. “Regulation permit” means a permit issued by the City Administrator according to provisions of this chapter and which permit is regulated by this chapter when:

- A. The issuance of such permit would occasion a material change in appearance, herein defined, on a structure or site; and
- B. The situs of such permit is located within an historic district established pursuant to this chapter.

26.03 COMMISSION ESTABLISHED. The Commission shall initially consist of five (5) members who shall be residents of the City. The Commission shall meet at least three (3) times each year.

26.04 MEMBERSHIP/COMPENSATION. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members should demonstrate a positive interest in historic preservation or expertise in architecture, architectural history, historic preservation, City planning, building rehabilitation, conservation in general or real estate. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission’s proceedings. Members shall serve without compensation.

26.05 TERM OF OFFICE. The original appointment of the members of the Commission shall be three for two years and two for three years, from January I

following the year of such appointment or until successors are appointed to serve for the term of three (3) years.

26.06 VACANCIES. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced. Each member shall serve until the appointment of a successor. Vacancies shall be filled by the Mayor according to the original selection as aforesaid. A simple majority of the Commission shall constitute a quorum for the transaction of business.

26.07 POWERS AND DUTIES. In addition to those duties and powers specified above, the Commission may:

1. Accept gifts and donations of real and personal property, including money, for the purpose of historic preservation, except any gift of real estate may be accepted only with the approval of the Council.
2. Acquire by purchase, bequest or donation, fee and lesser interest in historic properties, including properties adjacent to or associated with historic properties, with the approval of the Council.
3. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission.
4. Lease, sell and otherwise transfer or dispose of historic properties, subject to rights of public access and other covenants, with approval of the Council and in a manner that will preserve the property.
5. Contract, with the approval of the government body, with the State or Federal government or other organization.
6. Cooperate with the Federal, State and local governments in the pursuance of the objectives and historic preservation.
7. Participate in the conduct of land use, urban renewal, and other planning undertaken by the Council.
8. Recommend ordinances or otherwise provide information for the purposes of historic preservation to the Council.
9. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.
10. Adopt such guidelines for building rehabilitation and restoration as it finds desirable and appropriate to accomplish the provisions of subsection 26.07(2) of this chapter.

11. Consider applications for certificates of economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied.
12. Advise and assist owners of historical sites and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse and on procedures for inclusion on the National Register of Historic Places.
13. Undertake any other action or activity necessary or appropriate to the implication of its powers and duties or to the implication of the purpose of this chapter.

26.08 IDENTIFICATION AND DESIGNATION OF HISTORIC DISTRICTS.

1. The Commission may conduct studies for the identification and designation of historic districts meeting the definition established by this chapter. The Commission may proceed at its own initiative or upon a petition from any person, group or association.
2. The Commission may make a report and recommendation for the designation of an historic district and may conduct a public hearing thereon. Such report and recommendation shall be filed with the Planning and Zoning Commission and shall include a proposed ordinance establishing such district and describing the boundary thereof.
3. Within sixty (60) days of the receipt of the report, recommendation and proposed ordinance, the Planning and Zoning Commission shall report to the Council with respect to the relation of such designation to the general development plan, zoning ordinance, proposed public improvements and any plans for the renewal of the area involved. Upon submission of the report of the Planning and Zoning Commission, or upon the expiration of the sixty (60) day period, the matter shall be transmitted to the Council.
4. The Council shall submit a description of the proposed area of historical significance or the petition describing the area, if the proposed area is a result of the receipt of a petition to the Division of Historic Preservation of the State Historical Department, for review and recommendations concerning the proposed area. The description of the proposed area shall be submitted to the Division of Historic Preservation at least forty-five (45) days prior to the date of any public hearing conducted by the Council on an ordinance establishing the proposed area as an historic district. Any recommendations made by the Division of Historic Preservation shall be made available by the City to the public

for viewing during normal working hours at a City government place of public access.

5. Upon receiving the recommendation of the Commission and the report of the Planning and Zoning Commission, and after having received a recommendation of approval from the Division of Historic Preservation or having had the forty-five (45) day waiting period elapse, the Council shall conduct a public hearing on the ordinance establishing the proposed historic preservation district. The Council may approve or disapprove the ordinance or may refer the historic district designation to the Commission for modification.

26.09 DEMOLITIONS OF STRUCTURES IN HISTORIC DISTRICTS.

Demolition of structures erected within historic districts and deemed by the Commission to be of particular architectural or historical significance is prohibited unless, upon application, the Commission finds that the prohibition of demolition prevents the owner of the property from earning any reasonable return on the property. In the event that the structure is found to be of unique value, the Commission may, notwithstanding the showing of an absence of a reasonable return, deny permission to demolish; provided, however, a denial of permission to demolish shall prohibit demolition for not more than four (4) months from the date of application for a permit to demolish, unless at the expiration of four (4) months, adjustments have been made to allow for such a return. During this time, the Commission shall endeavor to formulate, with the owner, an economically feasible plan for the preservation of such structure.

26.10 ALTERATION OF STRUCTURES IN HISTORIC DISTRICTS.

1. After approval of the historical district designation by the Council, no material change in appearance of a structure or site within a designated district shall be made or permitted to be made by the owner or occupant thereof until a regulated permit shall have been obtained for such change as provided by this chapter.

2. After approval of a designation by the Council, it shall be the duty of the Commission to review all plans for any and all material changes in appearance of a structure or site within any district. The Commission shall issue a certificate of appropriateness if it approves plans submitted to it for review. The Commission shall approve only if it finds that:

The proposed work in creating, changing, destroying or affecting the exterior architectural features of the improvement or site upon which the work is to be done will not have a substantial adverse effect on the aesthetic, historical or architectural significance and value of either the

property itself or of the neighboring improvements in such district. In considering architectural and cultural values, the Commission shall determine whether the proposed change is consistent with the historic value and the spirit of the architectural style of the district.

26.11 PROCEDURE FOR REVIEW OF PLANS.

1. Application for a regulated permit shall be made to the City Administrator. In the event that the application is made by way of an application for a construction compliance certificate, the application will state that the work is to be done within an historical district. The Commission may require submission of such drawings, sketches, photographs or other exhibits as it deems necessary for consideration of the application.
2. Upon the filing of such application, the City Administrator shall immediately notify the Commission of the receipt of such application and shall transmit it, together with accompanying plans and other information, to the Commission, unless it pertains solely to the interior of the structure.
3. The Commission shall meet within fourteen (14) days after notification by the City Administrator of the filing, unless otherwise mutually agreed upon by the applicant and the Commission, and shall review the plans according to the duties and powers specified herein. In reviewing the plans, the Commission may confer with the applicant or any authorized representative.
4. The Commission shall approve or disapprove such plans and if approved, shall issue a certificate of appropriateness, which is to be signed by the Chairperson, attached to the application for the regulation permit and immediately transmitted to the City Administrator.
5. If the Commission disapproves of such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor in writing to the City Administrator and to the applicant. The Commission may propose appropriate revisions of the applicant's plans if it disapproved of the plans submitted. The applicant, if he or she so desires, may make modifications to the plans and shall have the right to resubmit the application at any time.
6. No regulated permit shall be issued authorizing a material change in appearance of a structure or site within an historic district until a certificate of appropriateness has been filed with the City Administrator. In the event the Commission disapproves of a proposed plan, its notice of disapproval shall be binding upon the City Administrator, and no

permit shall be issued in such a case. The failure of the Commission to act within forty-five (45) days after the date of an application filed with it, unless an extension is agreed upon mutually by the applicant and the Commission, shall make a finding that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid period of forty-five (45) days, and the Commission shall have a period of up to ninety (90) days within which to act upon such application.

7. After the certificate of appropriateness has been issued and the regulated permit granted to the applicant, the City Administrator shall from time to time inspect the construction, alteration or repair approved by such certificate and shall take such action as is necessary to enforce compliance with the approved plans.

26.12 CERTIFICATE OF ECONOMIC HARDSHIP. Application for a certificate of economic hardship may be made after denial of a certificate of appropriateness. The Commission may solicit expert testimony or require that the applicant for a certificate of economic hardship make admissions concerning any or all of the following information before it makes a determination on the application:

1. Estimate of the cost of proposed construction, alteration, demolition or removal and an estimate of any additional costs that would be incurred to comply with the recommendation of the Commission for changes necessary for the issuance of a certificate of appropriateness;
2. A report from a licensed engineer or architect with experience in rehabilitation as to structural soundness of any structures on the property and their suitability for rehabilitation;
3. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the Commission; and in the case of a proposed demolition, after renovation of the existing property for continued use;
4. Any other information considered necessary by the Commission to make a determination as to whether the property does yield or may yield a reasonable return to the owners.

26.13 REGULATION PERMIT. The City Administrator or other local authority shall not issue a regulation permit until either a certificate of appropriateness or a certificate of economic hardship has been issued by the Commission.

26.14 APPEALS. An aggrieved party may appeal the Commission's action to the Council. If not satisfied by the decision of the Council, the party may appeal within sixty (60) days after the Council's decision to the District Court for Shelby County. On appeal the Council or the District Court, as the case may be, shall consider whether the Commission has exercised its powers and followed the guidelines established by ordinance and whether the Commission's action was patently arbitrary and capricious.

26.15 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Commission, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Commission, any person who has served two consecutive Commission terms shall not be eligible for reappointment to the Commission for a period of two (2) years after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Commission member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and appropriate person within forty (40) days after the date the vacancy occurs. Any former Commission member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed.

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CHAPTER 27

AIRPORT COMMISSION

27.01 Airport Commission Created
27.02 Organization
27.03 Qualifications
27.04 Powers and Duties

27.05 Annual Report
27.06 Penalties
27.07 Limitation of Service

27.01 AIRPORT COMMISSION CREATED. The establishment of the City's Airport Commission is hereby confirmed as authorized by a vote of the City electors on March 27, 1944. The Commission shall have the power to oversee the Harlan Municipal Airport and its operations.

27.02 ORGANIZATION. The Airport Commission shall consist of three (3) members appointed by the Mayor with the approval of the Council for six-year terms commencing on April 1 of the year of appointment. Each member shall continue in office until a successor is appointed and qualified. The members shall receive no compensation for their services. Vacancies shall be filled in the same manner as appointments. Every two (2) years, immediately following the taking of office of the appointee for a regular term, the Commission shall choose its Chairperson, Secretary and Treasurer from among its members. Each member of the Commission shall be bonded in the same manner as members of other City boards and commissions are bonded.

27.03 QUALIFICATIONS.

1. All members of the Airport Commission shall be qualified by knowledge or experience to act in matters pertaining to the operation of the municipal airport. No one holding an elective office in the City government shall be eligible to appointment or service upon the Airport Commission.
2. No more than two (2) members shall be citizens and residents of the City.
3. Two (2) members may reside outside the corporate limits, and the County. Said members must be a present or past pilot.

(Ord. 2016-01 – Feb. 16 Supp.)

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

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

(Code of Iowa, Sec. 330.21)

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

(Code of Iowa, Sec. 320.21)

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

(Code of Iowa, Sec. 330.21)

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

(Code of Iowa, Sec. 330.22)

27.06 PENALTIES. A violation of any rule properly established by the Airport Commission is a simple misdemeanor. Following notice to a person who violates an operating rule of the Commission or State or Federal air law and due process including a hearing on a charge of such violation, the Commission may deny a person or persons charged the use of the airport or its facilities, if it is shown that the violation caused serious danger to other users or to property; showed negligence; or that there had been a pattern of repeated violations such as to eliminate the probability of inadvertence in committing the violation. The denial order shall state a term, not exceeding one year. Such rules shall extend to the air space above the airport, the land within the City limits and the area within two (2) miles of the boundaries of the airport, regardless of the territorial limits of the airport or City, as the Commission shall provide.

27.07 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Commission, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Commission, any person who has served two consecutive Commission terms shall not be eligible for reappointment to the Commission for a period of one (1) year after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Commission member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and

appropriate person within forty (40) days after the date the vacancy occurs. Any former Commission member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed.

(Ord. 2006-07 – July 06 Supp.)

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CHAPTER 28

VETERANS MEMORIAL AUDITORIUM COMMISSION

28.01 Memorial Auditorium Commission
28.02 Qualification and Appointment
28.03 Compensation and Vacancies

28.04 Powers and Duties
28.05 Intent
28.06 Limitation of Service

28.01 MEMORIAL AUDITORIUM COMMISSION. The Veterans Memorial Auditorium shall be under the management and control of a commission consisting of five (5) members which shall known as the Veterans Memorial Auditorium Commission.

28.02 QUALIFICATION AND APPOINTMENT. Each Commissioner shall be an honorably discharged soldier, sailor, marine, airman or Coast Guard member and a resident of Shelby County. The Commissioners shall be appointed by the Mayor with the approval of the Council for staggered three-year terms.

28.03 COMPENSATION AND VACANCIES. The Council shall, by resolution, set the compensation of the Commissioners. A vacancy on the Commission shall be filled in the same manner as the original appointment for the balance of the unexpired term.

28.04 POWERS AND DUTIES. The Commission shall manage and control the Veterans Memorial Auditorium, by making and establishing rules and regulations for its use and management. In its management capacity, the Commission shall:

1. Officers. Meet and elect from its members a President, Secretary and such other officers as it deems necessary.
2. Auditorium. Have charge, control and supervision of the Memorial Auditorium, its parking lot, appurtenances, fixtures and rooms.
3. Activities and Affairs. Direct and control the activities and affairs of the Veterans Memorial Auditorium. In directing and controlling the activities and affairs of the Veterans Memorial Auditorium, the Commission shall avail itself of the expertise of the City Administrator by consulting with said City Administrator on matters of policy, function and supervision of the Auditorium and Auditorium functions.
4. Hiring of Personnel. Employ a building/activity Manager by contract or otherwise and authorize such Manager to employ such

assistants and employees as may be necessary to the proper management of the Memorial Auditorium, and fix their compensation; provided, however, that prior to such employment, the compensation of the Manager, assistants and employees shall have been fixed and approved by a majority of the members of the Commission voting in favor thereof.

5. Personnel Rules and Regulations. Ensure compliance by the Manager and all employees with the City of Harlan *Personnel Rules and Regulations Handbook* for all City employees as amended from time to time by the Council.

6. Removal of Personnel. Remove the Manager, by a two-thirds (2/3) vote of the Commission, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject, however, to the provisions of Chapter 70 of the Code of Iowa.

7. Purchases. Select (or authorize the Manager to select with approval of the Commission) and make purchases of equipment, supplies and other items, for the Memorial Auditorium within budgetary limits set by the Commission.

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

9. Expenditures. Have control of the expenditure of all funds allocated for the Memorial Auditorium by the Council.

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

11. Record of Proceedings. Keep a full and complete record of all its proceedings and abide by Chapter 21 of the Iowa Code regarding open meetings.

12. City Recreation. Cooperate with the Council, City Administrator, and the City's Parks and Recreation Board to provide the citizens of Harlan and surrounding areas with a place to maintain and conduct recreational activities at no cost to the City. As a part of this cooperation effort, consideration for use of the auditorium will be first given to revenue-generating activities and secondly to City recreational programs.

28.05 INTENT. In setting forth the powers and duties of the Commission, it is the express intent of the Council to give meaning and interpretation to Chapter 37 of the Code of Iowa as amended and it is not intended to usurp the authority of the Commission to “manage and control” the Veterans Memorial Auditorium.

28.06 LIMITATION OF SERVICE. In order to obtain a reasonable turnover in the personnel of the Commission, as well as to promote fresh ideas and generate new and innovative approaches to the various problems facing the Commission, any person who has served two consecutive Commission terms shall not be eligible for reappointment to the Commission for a period of one (1) year after the expiration of his or her final term. However, notwithstanding the foregoing limitation, a former Commission member may be reappointed to fill a vacancy in emergency situations. An emergency shall exist when a vacancy persists which cannot be filled by appointment of a qualified and appropriate person within forty (40) days after the date the vacancy occurs. Any former Commission member who would otherwise be ineligible because he or she served two consecutive terms may serve by emergency appointment only until a qualified and appropriate replacement can be appointed.

(Ord. 2006-07 – July 06 Supp.)

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CHAPTER 29

CEMETERY ASSOCIATION

29.01 Joint Control of Cemetery
29.02 Trustees

29.03 Annual Report

29.01 JOINT CONTROL OF CEMETERY. The cemetery of the City, being within the City limits and owned by the Harlan Cemetery Association, is under the joint control of the Harlan Cemetery Association and the City.

29.02 TRUSTEES. The Cemetery Association Trustees shall consist of five (5) members. The term of office shall be three (3) years. The Trustees shall be elected by written ballot by the members of the Association. The Trustees shall select from their members a Secretary, a Treasurer and a Chairperson.

29.03 ANNUAL REPORT. The Secretary and Treasurer of the Association shall file an annual report with the Clerk summarizing the sale of lots, receipts, disbursements and other matters pertaining to the Association's activities.

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation

30.06 Peace Officers Appointed
30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons

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

30.02 ORGANIZATION. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council and City Administrator. The activities, duties and performance of the Police Chief and other law enforcement officers shall be under the direct supervision of the City Administrator on a day-to-day basis, subject to the approval of the City Council.

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

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

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

(Code of Iowa, Sec. 80B.11[2])

(IAC, 501-3 and 501-8)

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

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

(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.
11. Reserve Officers. The Chief shall be authorized to establish and maintain a Police Reserve Unit in accordance with the by-laws set out in the Harlan Police Department Policy and Procedure manual.

(Ord. 2008-04 – Mar. 08 Supp.)

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief
35.09 Constitution

35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Enforcement of International Fire Code
35.15 Destruction of Property
35.16 Illegal Open Burning
35.17 Authority to Cite Violations
35.18 Billing for Services

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

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council. At no time shall the department have less than fifteen (15) members. Any citizen of the City over eighteen (18) years of age is eligible for membership.

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

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

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

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

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

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

35.06 ELECTION OF OFFICERS. The department shall elect a President and such other officers as its constitution and bylaws may provide, but the election of the President shall be subject to the approval of 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.

35.07 FIRE CHIEF: DUTIES. The activities, duties and performance of the Fire Chief and other fire department personnel shall be under the direct supervision of the City Administrator, subject to the approval of the City Council. The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including but not limited to the following:

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, 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.

13. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council. Prepares and submits the department's annual report to the Mayor and City Council and develops other reports as necessary. Prepares the department annual budget. Plans and coordinates the servicing and

preventative maintenance of all departmental buildings, equipment and apparatus.

14. Formulates policies and regulations governing the activities of the Fire and Building Inspection departments.

15. Plans, organizes, evaluates and directs all fire suppression, prevention, emergency operations and first responder activities.

16. Reviews and recommends changes in codes and regulations concerning fire suppression, prevention and building inspection.

17. Issues permits regarding the use and storage of hazardous and/or flammable materials.

18. Analyzes work conditions and initiates improvements to operations as appropriate.

19. Hires personnel, enforces discipline and training regulations, assigns personnel and equipment.

20. Responds to fire alarms, directs and coordinates activities using the incident command system.

21. Confers with citizens and officials regarding fire department and building inspection operations.

22. Assists in the development and revision of municipal codes, policies and procedures.

23. Analyzes operational costs, prepares budget estimates and controls the expenditures of departmental appropriations and makes recommendations for improvements.

24. Coordinates fire department activities and other agencies.

25. Attends conferences, conventions, seminars and other educational meetings to keep abreast of changes in fire department and building inspection methods and administration.

26. Develops and presents programs to the general public or specific organizations.

27. Serves as chairperson of the Employee Safety Committee; maintain related Right-to-Know laws.

28. Material Safety Data sheets; placards for buildings.

29. Maintains regular and punctual attendance at work.

30. Establishes and maintains effective working relationships with fellow employees, City officials and the general public.

31. Reviews and approves/disapproves all permits for the discharge of fireworks.

32. Prepare and deliver statements for fire services rendered to persons responsible for payment of these services as provided in this chapter.

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

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

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

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

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

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

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

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

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

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

35.14 ENFORCEMENT OF INTERNATIONAL FIRE CODE. Any violation of the International Fire Code, as adopted in Chapter 155 of this Code of Ordinances, shall be punishable as provided at Section 35.17 herein.

(Ord. 2013-02 – Mar. 13 Supp.)

35.15 DESTRUCTION OF PROPERTY. In case of fire and to prevent the spread of the same, when there is great danger, the Fire Chief, with the consent of the Mayor, or in the Mayor's absence the Mayor Pro Tem, may cause to be torn down any building or parts of buildings if, in their opinion, the same should be done for the protection of property. Neither the Fire Chief nor the Mayor or anyone acting in the Mayor's place, shall be liable for damages in directing the destruction of property when acting in good faith and to the best of their judgment.

35.16 ILLEGAL OPEN BURNING. From time to time conditions exist which require the State Fire Marshal to order a county-wide ban on open burning which would prohibit open burning in the City of Harlan. Any violation of any burn ban order imposed by the State Fire Marshal shall be considered a violation of Chapter 35 of this Code of Ordinances and punishable as provided in Section 35.17 herein.

35.17 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the Code of Iowa may issue citations in accordance to Chapter 805 of the Code of Iowa, for violations of state and/or local fire safety regulations. Violations of this chapter shall be considered simple misdemeanors punishable by a fine of not less than \$50 nor more than \$500.

35.18 BILLING FOR SERVICES. After every service call, the Fire Chief shall prepare and deliver a statement for any fire, hazmat cleanup or similar service rendered by the Harlan Fire Department as provided herein. For the purpose of this section, the person, business or entity responsible for payment is the person, business or entity whose conduct precipitated the service call or the person, business, or entity who owned the property benefited by the service call.

1. Billed to Whom. The statement for services rendered shall be sent to the person, business, or entity responsible for payment.
2. Charges for Billing Purposes. Charges for services rendered by the Harlan Fire Department shall take into account the following:
 - A. Emergency response apparatus actually used in the response;
 - B. Stand by status of support vehicles;
 - C. Manpower needed, and actually used in the response;

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

E. The uninsured portion of equipment damaged, contaminated, or destroyed, at replacement cost;

F. The replacement cost of disposable supplies, including but not limited to fuel, water, foam, absorbent materials, or any other cost, incurred by the fire department in the response to the incident;

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

NOTE: Service calls for investigation of smoke, or other calls where no services are actually provided, (unintentional false alarm) shall not be billed.

3. Billing Rates. In passing the ordinance codified in this section, the City acknowledges that the Shelby County Board of Supervisors passed County Ordinance No. 2001-4 which is a uniform billing ordinance for Shelby County. Included in said ordinance are specific billing rates for services rendered in the seven categories listed in subsection 2 above. In preparing his bill for services rendered as provided herein, the Fire Chief shall make his charges consistent with the Shelby County rates established on August 22, 2001, in Shelby County Ordinance 2001-04. Should those rates, as incorporated herein, be amended, the Harlan Fire Chief shall keep his statement for fire services rendered consistent with the amended rates and charge according to the amendments. Further, the City acknowledges that the Uniform Billing Ordinance does not address rates for extrication services in its ordinance 2001-04. However, the City desires to bill for extrication services at the rate of \$350.00 per vehicle for service calls that require the extrication of any driver or passenger. The Fire Chief may bill accordingly.

A. Exception for tax paying property owners within the City of Harlan and the Harlan Fire Department Rural Fire District shall have a maximum bill of \$500 for Emergency Services Rendered. Hazardous Materials Spills / Emergencies will be billed at the scheduled rate established by the State of Iowa.

B. When the Harlan Fire Department renders Mutual Aid to a neighboring Fire Department in Shelby County, a bill for services will be prepared and submitted to the fire department of the jurisdiction where the service call occurred. If the host Fire Department does not bill for services then there will be no bill submitted by the Harlan Fire Department as stated in the Shelby County Uniform Billing Ordinance.

C. Any expenses the Harlan Fire Department receives for response will be passed on to the property owner at actual cost. This fee will be in addition to the \$500 maximum response fee. Examples would be, but not limited to, mutual aid received, specialized equipment, uninsured equipment, disposables.

(Ord. 2015-11 – Nov. 15 Supp.)

4. **Illegal Burning Rates.** During a State Fire Marshal ordered burning ban, all rates and fees established by this section shall be doubled if the Harlan Fire Department provides services to parties responsible for payment of fire services who intentionally set fires or “controlled burn” fires, which are not accidentally ignited or pre-approved by the Fire Chief.

5. **False Alarms.** Any person, business, or entity causing the Harlan Fire Department to respond to a fire alarm which said person, business, or entity knows to be false or upon reasonable inspection, should have known to be false, shall be responsible for payment of a civil penalty to the Harlan Fire Department in an amount to be billed by the Fire Chief according to this section the same as if the false alarm were an actual fire or emergency. This civil penalty shall be due and payable in addition to any other criminal or civil penalties incurred due to the false alarm.

6. **Appendix.** Attached to the ordinance codified in this section is a copy of the statement the Fire Chief may use to bill for fire services rendered.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

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

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

(Ord. 2009-11 – Sep. 09 Supp.)

36.05 NOTIFICATIONS.

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

(Ord. 2015-11 – Nov. 15 Supp.)

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Unnecessary Noise
40.07 Public Nudity Prohibited

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

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

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

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

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

(Ord. 2008-02 – Mar. 08 Supp.)

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

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

8. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Ord. 2015-09 – Sep. 15 Supp.)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 UNNECESSARY NOISE. It is unlawful for any person to disturb the peace and quiet of others, or the good order and quiet of the City, by creating any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans or any sound which endangers or injures the welfare, safety or health of a human being, or disturbs a reasonable person of normal sensitivities or which devalues or injures personal or real property. It is also unlawful for any person operating a motor vehicle to disturb the public peace and quiet by excessive racing or gunning of the motor of a motor vehicle, honking of the horn of a motor vehicle, by playing loud music (such as stereo, tape player or car radio), or by any noise which is unnecessary to the normal and/or safe operation of a motor vehicle.

40.07 PUBLIC NUDITY PROHIBITED. No person shall expose his or her genitals, pubic region or pubic hairs, buttocks or, in the case of a female over the age of eight (8) years, the female breast to another person not the person's spouse or parent, in a public place or in a private location which is readily visible from a public place or which is a private place generally open to the public. This prohibition shall be construed to prohibit all forms of public nudity, including but not limited to appearing nude, appearing unclothed or appearing in less than opaque attire or in any fashion that exposes to view any specified anatomical area as defined in Section 128.01(13) of this Code of Ordinances.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

41.08 FENCES.

1. **Barbed Wire and Electric Fences.** It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of ten (10) acres or more and is used as agricultural land, and then only if such barbed wire or electric fence does not abut on any residential or commercially zoned area. This does not preclude the use of barbed wire in any industrial district for security purposes so long as the bottom strand of barbed wire is at least six feet and six inches (6' 6") above ground level.

2. **Dangerous Fences.** It is unlawful for a person to erect, maintain, or allow to remain upon property owned by said person within the City limits any kind of dangerous fence. Any fence made up of materials, any segments of which are by nature difficult to see, are considered dangerous. Any type of fence which consists of posts, pillars or anchors and any number of strands of wire, whether barbed or not barbed, strung between said posts, pillars, or anchors is considered a dangerous fence, per se. Single or double wire fences, no higher than eighteen (18) inches off the ground, which are energized and strung around a garden to prevent animals from entering into the garden are not prohibited by this section. Underground electric fences on residential properties to restrain pets are not prohibited by this section; however, such fencing is not allowed in the City right-of-way. This section applies to all dangerous fences as they may exist in the City. Dangerous fences in existence when this section becomes law are not “grandfathered in” and must be removed. In addition to other methods available to the City to enforce this section, the City may consider any dangerous fence a nuisance.

(Ord. 2014-02 – May 14 Supp.)

41.09 DISCHARGING WEAPONS. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits, except this section does not apply to the following:

1. Any permit to discharge firearms issued by the City.
2. Any target practice on school grounds with the knowledge and authorization of property school authorities.
3. Trapshooting conducted in an area of the City described as follows:

From the center of Section 19, north 150 feet to the point of beginning, thence west 925 feet, thence north 575 feet, thence east 925 feet, thence south 575 feet to the point of beginning, forming a rectangle 925 feet long and 575 feet wide, with the southeast corner 150 feet north of the center of Section 19

4. Any officer of the law in the discharge of duties or in an established police firing range.

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

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

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

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

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

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

(Code of Iowa, Sec. 727.2)

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

- A. Personal Injury:.....\$250,000 per person.
- B. Property Damage:\$50,000
- C. Total Exposure:.....\$1,000,000

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Unauthorized Computer Access

42.08 Harlan Cemetery Grounds

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has

accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR NOTICES. It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

(Code of Iowa, Sec. 716.6B)

42.08 HARLAN CEMETERY GROUNDS. No person is allowed on the Harlan Cemetery grounds between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m.

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery or Offering For Sale

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

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

43.03 DRUG PARAPHERNALIA DEFINED. The term “drug paraphernalia” as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;

- J. Air driven pipes;
- K. Chillums;
- L. Bongs;
- M. Ice pipes or chillers.

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

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

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Alcohol Vaporizer

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

1. Social Host. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic liquor, wine, or beer. The provisions of this subsection do not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47[1A])

2. Purchase, Consume, or Possess. A person or persons under legal age shall not purchase or attempt to purchase, consume, 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. Misrepresentation of Age. 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])

(Ord. 2014-15 – Nov. 14 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

- A. “Arrest” means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.
- B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
- C. “Peace Officer” means the same as defined in Section 801.4 of the Code of Iowa.
- D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.
3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 62.08 of this Code of Ordinances.)*

45.04 ALCOHOL VAPORIZER. Prohibiting a person or club holding a liquor control license or retail wine or beer permit from distributing or possessing machines used to vaporize an alcoholic beverage for consumption and making penalties applicable. *(Ord. 2008-05 – Mar. 08 Supp.)*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.01 CURFEW. The purpose of this section is to promote the safety of all citizens of the City and to enhance the good order of the community in the reduction of the incidence of juvenile criminal activity by requiring children under the age of eighteen (18) years old (minor children) to be off the public streets, out of the public parks and otherwise to be at a private residence between the hours of 12:30 a.m. and 5:00 a.m. The Council has determined that the adoption of these provisions will reduce vandalism in the City along with other types of juvenile criminal and anti-social behavior. Likewise, while this section will restrict some rights of minor children, it is intended to protect their peculiar vulnerability, account for their lesser ability to make sound judgments and also to reflect society's deference to the guiding role of parents.

1. Definition. As used in this section, the term "minor" or "minor child" means any unemancipated person less than eighteen (18) years of age.
2. Curfew Established. It is unlawful for any minor child to be or remain upon any of the alleys, streets, sidewalks, parks or other public places or to be in places of business, places of amusement or any parking lots, public or private, within the limits of the City, whether or not said minor child is located within a motor vehicle, between the hours of 12:30 a.m. and 5:00 a.m.
3. Exceptions. The curfew established in subsection 2 does not apply to a minor accompanied by a parent, guardian or other person charged with the care, custody and control of said minor or any other responsible person over 25 years of age, nor shall the restriction apply to any minor traveling between his or her residence and any place of employment, church, any political or educational activity or bona fide school-sponsored athletic event, so long as said minor is traveling by the most direct route between said residence and any of the above said legitimate locations and/or events.
4. Responsibility of Parents and Guardians. It is unlawful for any parent, guardian or other person charged with the care, custody and control of any minor child to allow or permit said minor child to violate the curfew established in subsection 2. The fact that any such minor

child is found to be in violation of said curfew shall be presumptive evidence that said minor child is in violation of this chapter with the permission of said parent, guardian or custodian.

5. **Responsibility of Business Establishments.** It is unlawful for any person operating a place of business or amusement to allow or permit any minor child to be in or upon any such place of business or amusement operated by such person within the curfew hours set by subsection 2 except as otherwise provided in subsection 3.

6. **Enforcement.** Any law enforcement officer while on duty is empowered to arrest any minor child who violates any of the provisions of this chapter. Upon arrest, said officer shall detain the offending minor child until such time as the parent, guardian or custodian of said child shall take him or her into said custodian's custody. Upon arrest, the arresting officer shall, without delay, telephone the parent, guardian or custodian of the minor child and inform said parent, guardian or custodian of the arrest. If the parent, guardian or custodian cannot be located, the arresting officer shall promptly transport the minor child to the minor child's residence, surrender custody of the child to the custodian and notify said custodian of the violation. If no parent, custodian or responsible adult is available to take control of the minor child, the arresting officer shall immediately contact the appropriate juvenile authorities for temporary out-of-home, overnight placement.

7. **Enforcement Discretion.** Any law enforcement officer making an arrest pursuant to this chapter may charge just the offending minor child, just the offending parent, guardian or custodian, or may charge both the minor child and parent, guardian or custodian with a violation of this section.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products.

(Ord. 2014-16 – Nov. 14 Supp.)

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

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

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

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering

47.05 Parks Closed
47.06 Camping
47.07 Alcoholic Beverages in City Parks

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of twelve o'clock (12:00) midnight to six o'clock (6:00) a.m.

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

47.07 ALCOHOLIC BEVERAGES IN CITY PARKS. No person shall use alcoholic liquor or spirits, as defined by Chapter 123 of the Code of Iowa, in any City park. However, if used responsibly and if not provided to persons under the legal drinking age, wine or beer may be used in City parks. Nothing in this section shall be construed to condone public intoxication in any City park.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Notice to Abate: Contents
50.07 Method of Service

50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct

and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

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

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

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

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

11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

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

13. Snow and Ice Left Standing on Sidewalks. All snow and ice not removed from public sidewalks twelve (12) hours after the snow and ice have ceased being deposited thereon.

14. Trees and Hedges Obstructing View of Traffic. 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.

15. Tree Limbs. All tree limbs which are less than eight (8) feet above the surface of any public sidewalk or are less than fourteen (14) feet above the traveled way of any public street.

16. Wires. All wires which are strung less than eighteen (18) feet above the surface of the ground.
17. Structures Damaged by Fire or Decay. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (½) their original value and which are so situated as to endanger the safety of the public.
18. Pollution of Public Wells and Waterways. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.
19. Refuse; Junk. Accumulations of refuse or junk.
20. Dead Animals. Carcasses of animals not disposed of within twenty-four (24) hours after death, as provided by law.
21. Pools of Stagnant Water. All ponds or pools of stagnant water.
22. Certain Fences. Maintaining any fence in any residential or business district, regardless of its height or location, which is constructed out of corrugated metal, sheet metal, large pieces of plywood, or fencing materials which are normally used to restrain agricultural animals, such as hog panels, chicken wire or similar material, and barbed wire and/or electric fencing as per the standards set forth in Section 41.08 Fences.
(*Ord. 2014-02 – May 14 Supp.*)
23. Zoning Violations. Maintaining any building, structure, accessory use or any other type or kind of addition, alteration, erection or improvement to any lot, part of a lot or any real property located within the City limits which violates any of the City's Zoning Regulations or Subdivision Regulations.

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

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

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer 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])

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

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

50.07 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner, or may be served by the City police where practical. If no owner of the property or occupant thereon can be located within forty-eight (48) hours of the determination by the Police Chief that a nuisance, as defined in Section 50.02, subsections 5 (blocking ways), 8 (air pollution), 9 (weeds and brush), 13 (snow and ice) or 18 (pollution of wells) exists, then the City is authorized to proceed with abating the nuisance in accordance with Section 50.10 of this chapter.

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Police Chief as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered.

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

At the conclusion of the hearing, the Police Chief shall render a written decision as to whether a nuisance exists. If it is found that a nuisance exists, the Police Chief must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be made by immediately filing a written notice with the Police Chief. The appeal will be heard 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.

50.09 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 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])

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Ord. 2012-07 – Oct. 12 Supp.)

(Code of Iowa, Sec. 364.13)

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer 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 motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

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

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

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

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

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

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City; or
3. Fence or Wall. A solid fence or wall enclosed on all sides of at least five (5) feet in height, constructed so as to prevent unauthorized entrance and which substantially screens the area in which junk is stored or deposited.

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

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

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CHAPTER 52

MOWING OF PROPERTIES

52.01 Purpose	52.06 Publication of Notice
52.02 Exemptions	52.07 Failure to Comply
52.03 Definitions	52.08 Abatement by City
52.04 Cutting Specifications and Standards of Practice	52.09 Collection of Costs
52.05 Uniform Height Specifications	52.10 Failure to Abate

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

52.02 EXEMPTIONS. The Council reserves the right to declare any particular area exempt from this chapter if it involves conservation or other natural grass, flower, or wildlife area, such exemption to be approved by the Council by motion and filed in writing with the Clerk.

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

1. “Curb”, “curb line” or “curbing” means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. “Cut” or “mow” means to mechanically maintain the growth of grass, weeds, or brush at a uniform height.
3. “Owner” means a person owning private property in the City and any person occupying private property in the City.
4. “Parking” means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

52.04 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner’s property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner’s property, to a uniform height as defined in Section 52.05.
2. Every owner shall cut, mow and maintain all grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner’s property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds, or brush growing on the remainder of the owner’s property.

3. Every owner shall cut, mow and prevent all grass, weeds and brush adjacent to the curb, curb line, curbing, in such a manner so as to keep all grass, weeds and brush from exceeding the curb, curb line, curbing.

52.05 UNIFORM HEIGHT SPECIFICATIONS. Any property within the City of Harlan, whether vacated or non-vacated, is required to be mowed any time the grass, weeds and brush reaches a height where it can become a habitat for vermin. Ornamental grasses are excluded. Grass, weeds, and brush, which are allowed to grow in excess of the above-specified limitations, are deemed to be violations of this chapter. Any property within the City of Harlan, whether vacated or non-vacated, is required to conform to these specifications.

52.06 PUBLICATION OF NOTICE. Annual spring publication of this ordinance in an official newspaper shall serve as notice to property owners. The City will be authorized to respond to violations without additional written notice being given.

52.07 FAILURE TO COMPLY. If the property owner fails to comply with this chapter, the Council or its appointee will order the property to be mowed. The City of Harlan will then apply a charge of \$75.00 per hour to remedy said nuisances, plus a \$100.00 surcharge. This fee, if not paid within 30 days, will be assessed by the City for such costs and will be collected in the same manner as general property taxes.

52.08 ABATEMENT BY CITY. If the property owner neglects or fails to abate as directed by this chapter, the City may perform the required action to abate. The fee for the abatement will be set by the City Council.

52.09 COLLECTION OF COSTS. The City Clerk shall send a statement of the total expense incurred to the property owner who has failed to abide by the publication notice. If the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as general property taxes.

52.10 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same is in violation of this Code of Ordinances.

(Ch. 52 - Ord. 2015-04 – June 15 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.18 Vicious Dog Permits
55.02 Cruelty to Animals	55.19 Confinement of Vicious Dogs
55.03 Abandonment	55.20 Vicious Dogs at Large
55.04 Animal Neglect	55.21 Seizure, Impoundment and Disposition of Vicious Dogs, Illegal Animals and Dangerous Animals
55.05 Livestock Neglect	55.22 Keeping of Illegal Animals Prohibited
55.06 Livestock	55.23 Illegal Animal Exceptions
55.07 Damage or Interference	55.24 Keeping of Dangerous Animals Prohibited
55.08 Annoyance or Disturbance	55.25 Dangerous Animal Exceptions
55.09 Owner's Duty	55.26 Immediate Seizure or Destruction of Animals
55.10 Confinement	55.27 Permanent Removal From City
55.11 Dogs Running At Large	55.28 Firearm Permits To Destroy Obnoxious Birds
55.12 Impounding and Disposition	55.29 Registration of Kennels
55.13 Rabies Control	55.30 Regulation of Horses
55.14 Quarantine	55.31 Animal Waste
55.15 Disposal of Infected or Toxic Animal	55.32 Pet Awards Prohibited
55.16 Female Dogs	
55.17 Enabling Dogs to Leave Premises	

55.01 DEFINITIONS. The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Allow" or "permit" means to allow or permit with or without consent or knowledge.
3. "Animal" means any living creature not human.
4. "At large" means any animal found off the premises of the animal's owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
5. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
6. "Dangerous animal" means any animal, including a dog, except for an illegal animal per se, as defined herein, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past

conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a 12-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on two separate occasions within a 12-month period.

7. “Dog” means and includes both male and female animals of the canine species.

8. “Fair” means any of the following:

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

9. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.

10. “Illegal animal” means:

A. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition; and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so;

B. Any animal declared to be illegal by the City Administrator;

C. Any non-domesticated member of the order carnivore which as an adult exceeds the weight of 20 pounds;

D. Any of the following animals, which shall be deemed to be illegal animals, per se:

(1) Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;

(2) Wolves, coyotes and foxes;

(3) Badgers, wolverines, weasels, skunk and mink;

(4) Raccoons;

- (5) Bears;
 - (6) Monkey and chimpanzees;
 - (7) Bats;
 - (8) Alligators, crocodiles and caimans;
 - (9) Scorpions;
 - (10) Snakes and reptiles which are venomous;
 - (11) Snakes that are constrictors over six feet in length;
 - (12) Gila monsters;
 - (13) Opossums;
 - (14) All apes, baboons and macaques;
 - (15) Piranhas;
 - (16) Pot-bellied pigs.
11. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.
(*Code of Iowa, Sec. 717.1*)
12. “Offending animal” means a “vicious dog,” an “illegal animal,” or a “dangerous animal” as defined herein.
13. “Owner” means any person owning, keeping, sheltering or harboring an animal (or allowing the keeping, sheltering or harboring of an animal on the premises of said person).
14. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.
15. “Police Chief” means the legally designated chief of the Police Department or a designated representative who is the City employee designated by the City Administrator to administer the animal control function.
16. “Vicious dog” means:
- A. Any dog which has attacked a human being or domestic animal one or more times, without provocation;
 - B. Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
 - C. Any dog that snaps, bites or manifests a disposition to snap or bite;

- D. Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes;
- E. Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the Police Department, a law enforcement agency of the State or the United States or a branch of the armed forces of the United States;
- F. The Staffordshire Terrier breed of dogs;
- G. The American Pit Bull Terrier breed of dogs;
- H. The American Staffordshire Terrier breed of dogs;
- I. Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
- J. Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

55.02 CRUELTY TO ANIMALS. No person who impounds or confines, in any place, any domestic animal, or fowl, or dog or cat, shall fail to supply such animal during confinement with a sufficient quantity of food and water, or shall fail to provide the dog or cat with adequate shelter, or shall torture, torment, deprive of every person owing a dog to confine and restrain such dog by good and sufficient means, or to cause such dog to be properly leashed as to prevent such dog from biting any person or animal or from running at large.

55.03 ABANDONMENT. A person who has ownership of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may surrender the cat or dog to an animal shelter or pound during regular working hours, for a ten dollar (\$10) per animal surrender fee.

(Ord. 2009-06 – May. 09 Supp.)

(Code of Iowa, Sec. 717B.8)

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

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

55.05 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

55.06 LIVESTOCK. It is unlawful for a person to keep bees or livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

55.07 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to or interference with the peaceful enjoyment of the premises. This includes but is not limited to animals urinating and defecating upon another person's property.

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

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

(Code of Iowa, Sec. 351.38)

55.10 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

55.11 DOGS RUNNING AT LARGE. The owner of a dog shall at all times restrain such dog from being or running at large within the corporate limits of the City. Failure to do so shall constitute a simple misdemeanor subject to the following penalty provisions.

1. Dogs at Large:
 - A. First offense \$100.00 fine
 - B. Second offense \$200.00 fine
 - C. Third offense \$300.00 fine
 - D. Fourth and subsequent offenses shall be fined the sum of \$500.00 or imprisonment not to exceed 30 days.

2. Vicious Dogs at Large:
 - A. First offense \$200.00 fine
 - B. Second offense \$300.00 fine
 - C. Third offense \$400.00 fine
 - D. Fourth and subsequent offenses shall be fined the sum of \$500.00 or imprisonment not to exceed 30 days.
 (Ord. 2013-05 – June 13 Supp.)

55.12 IMPOUNDING AND DISPOSITION.

1. Any unlicensed dog found at large or any licensed dog found at large in violation of this chapter shall be seized and impounded.

2. The owner of such unlicensed or licensed dog shall be notified that the dog has been impounded. Such owner may repossess such dog upon payment to the Clerk of the sum of twenty five dollars (\$25.00) as an impounding fee for the first offense, plus an additional fee of ten dollars (\$10.00) for keeping such dog for each day or fraction thereof during which such dog has been impounded; fifty dollars (\$50.00) as an impounding fee for the second offense on the same dog, plus an additional fee of ten dollars (\$10.00) for keeping such dog for each day thereafter; and seventy-five dollars (\$75.00) as an impounding fee for the third and each successive offense thereafter on the same dog, plus an additional fee of ten dollars (\$10.00) for keeping such dog for each day thereafter.
 (Ord. 2013-05 – June 13 Supp.)

3. Impounded unlicensed dogs may be recovered by the owner upon proper identification and by compliance with the provisions of this chapter and of Chapter 56 of this Code of Ordinances relative to licenses.

4. When any dog has been apprehended and impounded, the official shall give written notice in not less than two (2) days to the owner, if

known. When impounded dogs are not reclaimed by their owners within seven (7) days of the date of notice, they may be humanely disposed of in accordance with the law. *(Ord. 2013-05 – June 13 Supp.)*

5. These impounding and disposition charges and proceedings may be imposed in addition to the criminal sanctions of Section 55.11 herein.

6. A five dollar (\$5.00) fee shall be charged for adoption of any animal from the Harlan City Pound. The fee shall be waived only upon adoption of any animal by a certified non-profit organization. *(Ord. 2013-05 – June 13 Supp.)*

7. A twenty-five dollar (\$25.00) adoption fee will be charged for the adoption of any intact (non-sterilized) animal from the Harlan City Pound. Twenty dollars (\$20.00) of this fee to be refunded upon receiving spay/neuter confirmation from a licensed veterinarian. *(Ord. 2009-06 – May 09 Supp.)*

55.13 RABIES CONTROL. All dogs six (6) months or more of age shall be immunized against rabies and a current rabies vaccination tag, furnished by a licensed veterinarian, shall be attached to the animal's collar or harness. Dogs not immunized or without a current rabies vaccination tag may be seized and impounded as provided in Section 55.12 of this chapter.

(Code of Iowa, Sec. 351.33)

55.14 QUARANTINE. The owner of any animal which has contracted rabies, or which has been subject to same, or which is suspected of having rabies, or which shall have bitten any person, shall upon demand by the Police Chief, produce and surrender up such animal to be held in quarantine for observation for that period necessary to detect the existence or nonexistence of rabies. The cost of caring for said animal shall be paid by the owner.

(Code of Iowa, Sec. 351.39)

(Ord. 2013-05 – June 13 Supp.)

55.15 DISPOSAL OF INFECTED OR TOXIC ANIMAL. If, upon examination by a licensed veterinarian, any animal shall prove infected with rabies or otherwise toxic, such animal shall be disposed of and it shall be the duty of said veterinarian to notify the City Chief of Police of any positive rabies case found, without delay. All related veterinarian fees shall be the responsibility of the owner. *(Ord. 2013-05 – June 13 Supp.)*

55.16 FEMALE DOGS. It shall be unlawful for any owner to allow or permit a female dog that is in season to run at large or to so confine her as to attract male dogs to the area and by their presence cause a nuisance. Any person violating provisions of this section shall be punished as provided in this

chapter and the dog shall be subject to seizure and impoundment, at the expense of the owner during the remainder of the heat period.

(Ord. 2013-05 – June 13 Supp.)

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

55.18 VICIOUS DOG PERMITS. It is unlawful for any person to harbor or keep a vicious dog within the City without first obtaining a vicious dog permit in accordance with the following:

1. Application. The application for a vicious dog permit must include the following:

A. Certificate of Insurance issued by an insurance company licensed to do business in the State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of \$100,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or agent in the keeping or owning of such vicious dog. Said certificate shall require notice to the City, in conformity with general City standards for certificates of insurance, in the event of underlying policy of insurance is canceled for any reason.

B. The cancellation or other termination of any insurance policy, presented to comply with this section, shall automatically revoke and terminate the permits issued under this section unless another certificate, complying with this section, shall be provided showing insurance in effect at the time of such cancellation or termination.

2. Photos. The application must be presented to the Police Chief with two color photos of the dog.

3. Notification of Changes. The owner of the vicious dog shall be required to notify the City within 24 hours of any transfer of ownership of the dog, the dog's escape or death, any change of address by the owner, or birth of offspring to the dog.

55.19 CONFINEMENT OF VICIOUS DOGS. All vicious dogs shall be secured confined within an occupied house or residence or in a secured enclosed and locked pen or kennel, except when leashed and muzzled as provided below. Such pen, kennel or structure must have secure sides and secure top attached to the sides or in lieu of a top, walls at least six feet in

height and at least six feet taller than any internal structure. All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet so as to prevent digging under the walls by the confined dog. All pens must have a sign with minimum two (2) inch lettering saying "Beware of Vicious Dog". The Police chief is empowered to inspect such pens at least once per year. All structure erected to house vicious dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exist such building on its own volition. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6) feet in length and a muzzle. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both dog and leash are under the actual physical control of a person eighteen years of age or older. Such dogs may not be leashed to inanimate objects such as trees, posts, building, or any other object or structure. Violation of this section is a misdemeanor.

(Ord. 2013-05 – June 13 Supp.)

55.20 VICIOUS DOGS AT LARGE. A vicious dog which is found not to be confined as required by this chapter shall be required to be permanently removed from the City or destroyed. An animal which is returned to the city after removal under this section shall be destroyed.

(Ord. 2013-05 – June 13 Supp.)

55.21 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS DOGS, ILLEGAL ANIMALS AND DANGEROUS ANIMALS.

1. The Police Chief or designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious dog, "illegal animal", or "dangerous animal" as defined herein, may initiate proceedings to declare said animal an "offending animal". If the owner contests said designation, a hearing on the matter shall be conducted by the City Administrator or designee. The person owning, keeping, sheltering or harboring the offending 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 offending animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the offending animal is determined to be vicious, illegal, or dangerous, the owner may be required to obtain a vicious dog permit, confine the animal or dispose of the animal as

required by this chapter. 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 Administrator or designee determines an animal is an offending animal held in violation of this chapter as set out in the notice of hearing, the City Administrator or designee shall order the person owning, sheltering or harboring or keeping the animal to obtain a vicious dog permit and confine the animal as required by this chapter, or remove it from the City. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the City Administrator or designee 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 person against whom the order of the City Administrator or designee was issued has not appealed such order to the Council, or has not complied with the order, the City Administrator or designee shall cause the animal to be destroyed.

3. The order to obtain the required permit, confine or remove an offending animal from the City issued by the City Administrator or designee may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order to the City Administrator or designee.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within twenty days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the City Administrator or designee. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof. The hearing shall be confined to the record made before the City Administrator or designee and the arguments of the parties or their representatives, but no additional evidence shall be taken.

5. If the Council affirms the action of the City Administrator or designee, the Council shall order in its written decision that the person sheltering, harboring or keeping such offending animal, shall obtain a vicious dog permit and confine said dog as required by this chapter or remove the offending animal from the City. The decision and order shall

immediately be served upon the person against whom rendered in the same manner as the notice set out in subsection (1) of this section. If the original order of the City Administrator or designee is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Police Chief or designee is authorized to seize and impound said offending animal. A dog so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the person against whom the decision and order of the City Administrator or designee or the Council was issued has not petitioned the Shelby County District Court for a review of said order, or has not complied with the order, the City Administrator or designee shall cause the dog to be destroyed in a humane manner.

6. Failure to comply with an order of the City Administrator or designee issued pursuant hereto and not appealed or of the Council after appeal, is a misdemeanor.

(Subsections 1-6 - Ord. 2013-05 – June 13 Supp.)

7. Any animal which is alleged to be an offending animal and which is under impoundment or quarantine at the animal shelter 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 dog is determined to be vicious or the animal is found to be an offending animal. If the dog is not determined to be vicious or the animal is found not to be offending, all costs shall be paid by the City except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

55.22 KEEPING OF ILLEGAL ANIMALS PROHIBITED. No person shall keep, shelter or harbor any illegal animal as a pet, or act as a temporary custodian for such animal, or keep shelter or harbor such animal for any other purpose or in any other capacity within the City except as provided in Section 55.23 of this chapter.

55.23 ILLEGAL ANIMAL EXCEPTIONS. The prohibition contained in Section 55.22 of this chapter shall not apply to the keeping of illegal animals in the following circumstances:

1. The keeping of illegal 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 illegal animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
3. The keeping of illegal animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of illegal animals by a wildlife rescue organization with appropriate permit from the Iowa Department of Natural Resources.
5. Any illegal animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 109 and 109A of the Code of Iowa.
6. The keeping of snakes and reptiles that are venomous and the keeping of snakes that are constrictors six feet in length and over, by any individual 18 years of age or older who (a) has received a degree of bachelor of science, based upon courses of instruction which include courses in herpetology, from an accredited college level institution, or (b) has successfully completed a course of instruction taught under the auspices of a zoo on the proper handling, care and keeping of such animals, or (c) has completed a course of instruction of at least 20 hours duration at an accredited educational institution on the care, handling and keeping of reptiles, before the effective date of the ordinance codified by this chapter and (d) has applied for and received from the Clerk a permit to keep such animals, such application to be on a form approved by the Council.

(Subsections 5&6 - Ord. 2013-05 – June 13 Supp.)

55.24 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a dangerous animal so defined herein, except as provided in Section 55.25 of this chapter.

55.25 DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 55.24 of this chapter shall not apply to the keeping of dangerous animals under the control of a law enforcement or military agency.

55.26 IMMEDIATE SEIZURE OR DESTRUCTION OF ANIMALS. Any animal which displays dangerous tendencies or is an illegal animal may be processed as a dangerous animal pursuant to Section 55.21 of this chapter and said animal may be immediately seized anywhere within the City, in which case the Police Chief or designee is authorized to destroy it immediately. Any dog which has been previously declared vicious or which is believed to be vicious and is not properly confined may be treated as a dangerous animal, and be immediately seized anywhere within the City.

(Ord. 2013-05 – June 13 Supp.)

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

55.28 FIREARM PERMITS TO DESTROY OBNOXIOUS BIRDS. The Police Chief is authorized to grant a permit for the use of firearms within the city limits of the City for the purpose of shooting and destroying pigeons, starlings, sparrows and other obnoxious birds of a like character and species when such birds are so concentrated as to substantially interfere with the peaceful enjoyment of private property within the City. The permit may be granted to any person over eighteen (18) years of age for a period of time specifically stated therein and authority thereunder granted shall be limited to specific areas, shall specifically describe the type of firearm to be used and the species of birds to be destroyed, and shall be in writing. Nothing in this section shall exempt the permittee from any civil liability which may be imposed because of any negligence in the use of such firearm.

(Ord. 2013-05 – June 13 Supp.)

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

55.30 REGULATION OF HORSES. It is unlawful for any person or persons to ride, lead, or drive a horse or horses upon any public sidewalk or upon any other portion of a public street right-of-way other than that portion thereof designated for use by vehicular traffic. Any person riding, leading, or driving any horse within the city limits of the City of Harlan shall be subject to all applicable city ordinances, rules of the road and all regulations governing traffic upon the public street, avenues, alleys and other public places within the City of Harlan. Furthermore, all persons riding, leading, or driving any horses which defecate anywhere within the city limits, shall, without delay, remove the feces to a garbage or trash receptacle after first placing said feces in a plastic or other impermeable bag and sealing said bag by tying it securely using a "twist tie", tape, or similar device or otherwise dispose of the feces in a sanitary manner.

(Ord. 2013-05 – June 13 Supp.)

55.31 ANIMAL WASTE. It is unlawful for any person or persons who own, house, lead, walk, or otherwise maintain control of any animal or pet which defecate anywhere within the city limits to fail to immediately remove the feces produced by said animal or pet to a garbage or waste receptacle after first placing said feces in a plastic or other impermeable bag and sealing said bag by tying it securely or using a “twist tie”, tape or similar device to prevent the odors from escaping from said bag into the atmosphere. All structures, yards, kennels, or pens wherein any dog, cat, pet or other animal is contained must be kept clean and free from odors caused by animal waste and/or feces.

(Ord. 2013-05 – June 13 Supp.)

55.32 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair event.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen’s Federation.

CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required

56.02 License Fees

56.03 Vaccination Required

56.04 Police Department to Issue License

56.05 License and Valid Tag Required

56.06 Tag Not Transferable

56.07 Duplicate Tag

56.01 ANNUAL LICENSE REQUIRED. Every owner of a dog over the age of six (6) months shall procure a dog license from the Police Department on or before January 31 on each year, said license shall expire on December 31. Every person registering a dog must be of a legal age at the time of registration. Such license may be procured at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of six (6) months after said date. All licenses shall expire the last day of December.

(Ord. 2013-06 – June 13 Supp.)

56.02 LICENSE FEES. The annual license fee shall be five dollars (\$5.00) for each dog. A penalty of ten dollars (\$10.00) shall be assessed for failure to pay the license fee when due. Impounded animal will not be released to owner until license is purchased and all fines and fees are received.

(Ord. 2009-06 – May. 09 Supp.)

56.03 VACCINATION REQUIRED. Before a license is issued, the owner must present to the Police Department a certificate from and signed by a licensed veterinarian showing that the dog for which the license is sought has been vaccinated against rabies with an injection of anti-rabies vaccine approved by the State Department of Agriculture, and that the vaccination does not expire within six months after the effective date of the dog license. Such vaccine shall be administered by a licensed veterinarian. Such veterinarian shall thereupon issue a tag with the certificate of vaccination, and such tag shall at all times be attached to the collar of the dog. This collar and tag shall at all times be kept on such dog. Such veterinarian shall issue a tag with the number thereon and the certificate of vaccination shall designate the tag number. Each rabies vaccination certificate issued by such veterinarian must be an official rabies vaccination certificate approved by the State Department of Agriculture.

(Ord. 2009-06 – May. 09 Supp.)

56.04 POLICE DEPARTMENT TO ISSUE LICENSE. Upon payment of the license fee, the Police Department shall issue to the owner a license which shall contain the name of the owner, place of residence, and a description of the dog. The Police Department shall keep a duplicate of each license issued as a public record. Upon the issuance of the license, the Police Department shall

deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued. Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

(Ord. 2009-06 – May. 09 Supp.)

56.05 LICENSE AND VALID TAG REQUIRED. It is a violation of this chapter for any owner to own or possess a dog within the City without obtaining a license in compliance with this chapter. Any dog found at large without a valid license from the City, or not wearing a valid rabies vaccination tag and for which no rabies vaccination certificate can be produced, shall be apprehended and impounded.

56.06 TAG NOT TRANSFERABLE. A license tag issued for one dog shall not be transferable to another dog. When the permanent ownership of a dog is transferred, the Police Department shall, by notation on the license record, give the name and address of the new owner.

(Ord. 2009-06 – May. 09 Supp.)

56.07 DUPLICATE TAG. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of one dollar (\$1.00) and the Police Department shall enter in the license record the new number assigned.

(Ord. 2009-06 – May. 09 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 State Law Applicable
60.05 Power to Direct Traffic

60.06 Traffic Accidents: Reports
60.07 Peace Officer's Authority
60.08 Obedience to Peace Officers
60.09 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Harlan Traffic Code.”

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including the following designated streets:
 - A. Court Street from 5th Street to 8th Street.
 - B. Market Street from 5th Street to 8th Street.
 - C. 6th Street from Durant Street to Hill Street.
 - D. 7th Street from Durant Street to Hill Street.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Department.

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

60.04 STATE LAW APPLICABLE. All vehicles of every description operated upon the streets and property dedicated for street purposes within the City shall be equipped, maintained, registered and operated in conformity with State law except where this Traffic Code as authorized by State law provides differently, and each and every rule, regulation and statute having the force of law within the State shall be applicable as if the same were fully incorporated, set out and enacted within and as a part of this chapter.

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

(Code of Iowa, Sec. 102.4 & 321.236[2])

60.06 TRAFFIC ACCIDENTS: REPORTS. The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report

shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

(Code of Iowa, Sec. 321.273)

60.07 PEACE OFFICER'S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver's license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

60.08 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic.

(Code of Iowa, Sec. 321.229)

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Council shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The Police Chief shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the Code of Iowa.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Tampering with Vehicle

62.07 Open Containers in Motor Vehicles
62.08 Obstructing View at Intersections
62.09 Reckless Driving
62.10 Careless Driving
62.11 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor’s licenses.
15. Section 321.216 – Unlawful use of license and nonoperator’s identification card.

16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
19. Section 321.220 – Permitting unauthorized person to drive.
20. Section 321.221 – Employing unlicensed chauffeur.
21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
23. Section 321.224 – Record kept.
24. Section 321.232 – Radar jamming devices; penalty.
25. Section 321.234A – All-terrain vehicles.
26. Section 321.235A – Electric personal assistive mobility devices.
27. Section 321.247 – Golf cart operation on City streets.
28. Section 321.257 – Official traffic control signal.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.

42. Section 321.302 – Overtaking and otherwise.
43. Section 321.303 – Limitations on overtaking on the left.
44. Section 321.304 – Prohibited passing.
45. Section 321.306 – Roadways laned for traffic.
46. Section 321.307 – Following too closely.
47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
48. Section 321.309 – Towing; convoys; drawbars.
49. Section 321.310 – Towing four-wheel trailers.
50. Section 321.312 – Turning on curve or crest of grade.
51. Section 321.313 – Starting parked vehicle.
52. Section 321.314 – When signal required.
53. Section 321.315 – Signal continuous.
54. Section 321.316 – Stopping.
55. Section 321.317 – Signals by hand and arm or signal device.
56. Section 321.319 – Entering intersections from different highways.
57. Section 321.320 – Left turns; yielding.
58. Section 321.321 – Entering through highways.
59. Section 321.322 – Vehicles entering stop or yield intersection.
60. Section 321.323 – Moving vehicle backward on highway.
61. Section 321.323A – Approaching certain stationary vehicles.
62. Section 321.324 – Operation on approach of emergency vehicles.
63. Section 321.324A – Funeral processions.
64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
65. Section 321.330 – Use of crosswalks.
66. Section 321.332 – White canes restricted to blind persons.
67. Section 321.333 – Duty of drivers.
68. Section 321.340 – Driving through safety zone.
69. Section 321.341 – Obedience to signal of train.

70. Section 321.342 – Stop at certain railroad crossings; posting warning.
71. Section 321.343 – Certain vehicles must stop.
72. Section 321.344 – Heavy equipment at crossing.
73. Section 321.344B – Immediate safety threat; penalty.
74. Section 321.354 – Stopping on traveled way.
75. Section 321.359 – Moving other vehicle.
76. Section 321.362 – Unattended motor vehicle.
77. Section 321.363 – Obstruction to driver's view.
78. Section 321.364 – Preventing contamination of food by hazardous material.
79. Section 321.365 – Coasting prohibited.
80. Section 321.367 – Following fire apparatus.
81. Section 321.368 – Crossing fire hose.
82. Section 321.369 – Putting debris on highway.
83. Section 321.370 – Removing injurious material.
84. Section 321.371 – Clearing up wrecks.
85. Section 321.372 – School buses.
86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
87. Section 321.381A – Operation of low-speed vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.
89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.

98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
116. Section 321.422 – Red light in front.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.
126. Section 321.439 – Windshield wipers.
127. Section 321.440 – Restrictions as to tire equipment.

128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.
131. Section 321.445 – Safety belts and safety harnesses; use required.
132. Section 321.446 – Child restraint devices.
133. Section 321.449 – Motor carrier safety regulations.
134. Section 321.450 – Hazardous materials transportation.
135. Section 321.454 – Width of vehicles.
136. Section 321.455 – Projecting loads on passenger vehicles.
137. Section 321.456 – Height of vehicles; permits.
138. Section 321.457 – Maximum length.
139. Section 321.458 – Loading beyond front.
140. Section 321.460 – Spilling loads on highways.
141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
144. Section 321.465 – Weighing vehicles and removal of excess.
145. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

62.04 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

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

62.07 OPEN CONTAINERS IN MOTOR VEHICLES.

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.

62.08 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

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

(Code of Iowa, Sec. 321.277)

62.10 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.

62.11 ENGINE BRAKES AND COMPRESSION BRAKES.

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

[The next page is 321]

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

63.02 STATE CODE SPEED LIMITS. The following speed limits are established in Section 321.285 of the Code of Iowa and any speed in excess thereof is unlawful unless specifically designated otherwise in this chapter as a special speed zone.

1. Business District – twenty (20) miles per hour.
2. Residence or School District - twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

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

63.04 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. The total length of Erie Drive.
 - B. The total length of Cheyenne Avenue.
 - C. *(Repealed by Ord. 2008-13 – Sep. 08 Supp.)*
 - D. On 8th Street from Chatburn Avenue to Elm Street.
 - E. On 9th Street from Chatburn Avenue to Elm Street.
2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On 12th Street from Cyclone Avenue to the north edge of Broadway Avenue.
 - B. On 12th Street from Chatburn Avenue (Hwy. 44) to Cyclone Avenue.
 - C. *(Repealed by Ord. 2008-13 – Sep. 08 Supp.)*
 - D. On Exchange Street from Chatburn Avenue (Hwy. 44) to Willow Street.
 - E. On Cyclone Avenue from 12th Street to the east City limits.
 - F. On 12th Street from the north entrance of Little George Park to Chatburn Avenue (Hwy 44).
 - G. On 12th Street from Broadway Avenue north to Dye Street.
(Ord. 2015-02 – Feb. 15 Supp.)
3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On 12th Street north from Dye Street to the north City Limits.
 - B. On Chatburn Avenue (Hwy. 44) from U.S. Highway No. 59 to five hundred (500) feet east of 6th Street.
 - C. On Cyclone Avenue from 12th Street to U.S. Highway No. 59.
(Ord. 2015-02 – Feb. 15 Supp.)
4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. On 12th Street from the south corporate limits to the north edge of Little George Park.
 - B. On U.S. Highway 59 from a point one thousand nine hundred twelve (1,912) feet (Sta. 495) south of Chatburn Avenue (Hwy. 44) to a point two hundred (200) feet north of Cyclone Avenue.
 - C. On Chatburn Avenue (Hwy. 44) from nine hundred (900) feet west of U.S. Highway No. 59 to U.S. Highway No. 59.
 - D. On Chatburn Avenue (Hwy. 44) from five hundred (500) feet east of 6th Street to the east City limits.
(*Ord. 2009-02 – Apr. 09 Supp.*)
5. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On U.S. Highway No. 59 from the south corporate limits to a point one thousand nine hundred twelve (1,912) feet (Sta. 495) south of Chatburn Avenue (Hwy. 44).
 - B. On U.S. Highway 59 from the north corporate limits south to a point two hundred (200) feet north of Cyclone Avenue.
(*Ord. 2009-02 – Apr. 09 Supp.*)

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

(*Code of Iowa, Sec. 321.294*)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns

64.03 Crossing Centerline
64.04 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a left turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district, at intersections where there are automatic traffic signals and at the following designated intersections.

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

- NONE -

64.03 CROSSING CENTERLINE. Where two-way traffic and angle parking are permitted, it is unlawful to back from a parking space across the centerline to travel in the opposite direction as parked.

64.04 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required

65.02 Four-Way Stop Intersections

65.03 Three-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

65.09 Official Traffic Controls

65.01 STOP REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. 10th Street. Vehicles traveling on 10th Street shall stop at Court Street.
2. 10th Street. Vehicles traveling on 10th Street shall stop at Durant Street.
3. 10th Street. Vehicles traveling on 10th Street shall stop at Baldwin Street.
4. 10th Street. Vehicles traveling on 10th Street shall stop at Victoria Street.
5. 10th Street. Vehicles traveling on 10th Street shall stop at Main Street.
6. 10th Street. Vehicles traveling north on 10th Street shall stop at Market Street.
7. 10th Street. Vehicles traveling south on 10th Street shall stop at Park Street.
8. 10th Street. Vehicles traveling north on 10th Street shall stop at Broadway Street.
9. 11th Street. Vehicles traveling north on 11th Street shall stop at Baldwin Street.
10. 11th Street. Vehicles traveling north on 11th Street shall stop at Broadway Street.
11. 11th Street. Vehicles traveling south on 11th Street shall stop at Tarkington Street.
12. 12th Street. Vehicles traveling on 12th Street shall stop at Cyclone Avenue.

13. 12th Street. Vehicles traveling on 12th Street shall stop at the pedestrian actuated stop between Lincoln Avenue and Garfield Street.
14. 13th Street. Vehicles traveling north on 13th Street shall stop at Durant Street.
15. 14th Street. Vehicles traveling south on 14th Street shall stop at Durant Street.
16. 15th Street. Vehicles traveling south on 15th Street shall stop at Durant Street.
17. 16th Street. Vehicles traveling on 16th Street shall stop at Durant Street.
18. 16th Street. Vehicles traveling south on 16th Street shall stop at Victoria Street.
19. 16th Street. Vehicles traveling on 16th Street shall stop at Willow Street.
20. 16th Street. Vehicles traveling on 16th Street shall stop at Pine Street.
21. 17th Street. Vehicles traveling north on 17th Street shall stop at Pine Street.
22. 18th Street. Vehicles traveling north on 18th Street shall stop at Pine Street.
23. 18th Street. Vehicles traveling south on 18th Street shall stop at Lincoln Avenue.
24. 19th Street. Vehicles traveling south on 19th Street shall stop at Chatburn Avenue.
25. 20th Street. Vehicles traveling north on 20th Street shall stop at Willow Street.
26. 20th Street. Vehicles traveling on 20th Street shall stop at Pine Street.
27. 20th Street. Vehicles traveling south on 20th Street shall stop at Lincoln Avenue.
28. 21st Street. Vehicles traveling on 21st Street shall stop at Pine Street.
29. 21st Street. Vehicles traveling on 21st Street shall stop at Lincoln Avenue.

30. 21st Street. Vehicles traveling north on 21st Street shall stop at Willow Street.
31. 22nd Street. Vehicles traveling north on 22nd Street shall stop at Willow Street.
32. 22nd Street. Vehicles traveling south on 22nd Street shall stop at Pine Street.
33. Baldwin Street. Vehicles traveling on Baldwin Street shall stop at 6th Street.
34. Baldwin Street. Vehicles traveling on Baldwin Street shall stop at 7th Street.
35. Baldwin Street. Vehicles traveling on Baldwin Street shall stop at 12th Street.
36. Baldwin Street. Vehicles traveling west on Baldwin Street shall stop at 19th Street.
37. Broadway Street. Vehicles traveling on Broadway Street shall stop at 5th Street.
38. Broadway Street. Vehicles traveling west on Broadway Street shall stop at 12th Street.
39. Cheyenne Avenue. Vehicles traveling north on Cheyenne Avenue shall stop at Chatburn Avenue.
40. Country Club View. Vehicles traveling south on Country Club View shall stop at Hawkeye Avenue.
41. Court Street. Vehicles traveling east on Court Street shall stop at 7th Street.
42. Dodge Street. Vehicles traveling on Dodge Street shall stop at 5th Street.
43. Durant Street. Vehicles traveling on Durant Street shall stop at 5th Street.
44. Durant Street. Vehicles traveling on Durant Street shall stop at 6th Street.
45. Durant Street. Vehicles traveling west on Durant Street shall stop at 23rd Street.
46. Dye Street. Vehicles traveling east on Dye Street shall stop at 5th Street.

47. 8th Street. Vehicles traveling north on 8th Street shall stop at Broadway Street.
48. 8th Street. Vehicles traveling on 8th Street shall stop at Main Street.
49. 8th Street. Vehicles traveling south on 8th Street shall stop at Tarkington Street.
50. 8th Street. Vehicles traveling north on 8th Street shall stop at Cyclone Avenue.
51. 8th Street. Vehicles traveling on 8th Street shall stop at Hill Street.
52. 8th Street. Vehicles traveling on 8th Street shall stop at Market Street.
53. 8th Street. Vehicles traveling on 8th Street shall stop at Court Street.
54. 8th Street. Vehicles traveling on 8th Street shall stop at Durant Street.
55. 8th Street. Vehicles traveling on 8th Street shall stop at Baldwin Street.
56. 8th Street. Vehicles traveling on 8th Street shall stop at Willow Street.
57. 8th Street. Vehicles traveling on 8th Street shall stop at Pine Street.
58. Elm Street. Vehicles traveling west on Elm Street shall stop at 6th Street.
59. Elm Street. Vehicles traveling east on Elm Street shall stop at 7th Street.
60. Elm Street. Vehicles traveling west on Elm Street shall stop at 12th Street.
61. Euclid Street. Vehicles traveling west on Euclid Street shall stop at 8th Street.
62. Euclid Street. Vehicles traveling east on Euclid Street shall stop at 7th Street.
63. Farnam Circle. Vehicles traveling west on Farnam Circle shall stop at 12th Street.
64. Farnam Street. Vehicles traveling on Farnam Street shall stop at 6th Street.

65. Farnam Street. Vehicles traveling on Farnam Street shall stop at 7th Street.
66. Farnam Street. Vehicles traveling on Farnam Street shall stop at 8th Street.
67. Farnam Street. Vehicles traveling west on Farnam Street shall stop at 19th Street.
68. 5th Street. Vehicles traveling north on 5th Street shall stop at Farnam Street.
69. 5th Street. Vehicles traveling on 5th Street shall stop at Victoria Street.
70. 5th Street. Vehicles traveling on 5th Street shall stop at Court Street.
71. 5th Street. Vehicles traveling north on 5th Street shall stop at Market Street.
72. 1st Street. Vehicles traveling north on 1st Street shall stop at Cyclone Avenue.
73. 4th Street. Vehicles traveling south on 4th Street shall stop at Market Street.
74. 4th Street. Vehicles traveling on 4th Street shall stop at Court Street.
75. 4th Street. Vehicles traveling north on 4th Street shall stop at Market Street.
76. Garfield Avenue. Vehicles traveling east on Garfield Avenue shall stop at 19th Street.
77. Hill Street. Vehicles traveling west on Hill Street shall stop at 12th Street.
78. Hill Street. Vehicles traveling on Hill Street shall stop at 10th Street.
79. Hill Street. Vehicles traveling on Hill Street shall stop at 9th Street.
80. Hill Street. Vehicles traveling on Hill Street shall stop at 7th Street.
81. Hill Street. Vehicles traveling on Hill Street shall stop at 6th Street.
82. Hill Street. Vehicles traveling on Hill Street shall stop at 5th Street.

83. Industrial Avenue. Vehicles traveling west on Industrial Avenue shall stop at 12th Street.
84. Industrial Parkway. Vehicles traveling east on Industrial Parkway shall stop at 12th Street.
85. Industrial Parkway. Vehicles traveling west on Industrial Parkway shall stop at Shelby Street.
86. Industrial Parkway. Vehicles traveling west on Industrial Parkway shall stop at Highway 59.
87. Laurel Street. Vehicles traveling on Laurel Street shall stop at 6th Street.
88. Main Street. Vehicles traveling on Main Street shall stop at 5th Street.
89. Main Street. Vehicles traveling on Main Street shall stop at 6th Street.
90. Main Street. Vehicles traveling on Main Street shall stop at 7th Street.
91. Maplecrest Drive. Vehicles traveling east on Maplecrest Drive shall stop at 9th Street.
92. Market Street. Vehicles traveling west on Market Street shall stop at 5th Street.
93. Market Street. Vehicles traveling west on Market Street shall stop at 6th Street.
94. Morningview Drive. Vehicles traveling east on Morningview Drive shall stop at Veterans Memorial Auditorium.
95. Morningview Drive. Vehicles traveling west on Morningview Drive shall stop at 12th Street.
96. 9th Street. Vehicles traveling on 9th Street shall stop at Court Street.
97. 9th Street. Vehicles traveling on 9th Street shall stop at Durant Street.
98. 9th Street. Vehicles traveling on 9th Street shall stop at Baldwin Street.
99. 9th Street. Vehicles traveling on 9th Street shall stop at Victoria Street.
100. 9th Street. Vehicles traveling on 9th Street shall stop at Willow Street.

101. 9th Street. Vehicles traveling on 9th Street shall stop at Pine Street.
102. 9th Street. Vehicles traveling south on 9th Street shall stop at Chatburn Avenue.
103. 9th Street. Vehicles traveling north on 9th Street shall stop at Broadway Street.
104. 9th Street. Vehicles traveling on 9th Street shall stop at Main Street.
105. 9th Street. Vehicles traveling on 9th Street shall stop at Tarkington Street.
106. 9th Street. Vehicles traveling on 9th Street shall stop at Cyclone Avenue.
107. 9th Street. Vehicles traveling on 9th Street shall stop at Market Street.
108. Onyx Drive. Vehicles traveling south on Onyx Drive shall stop at Willow Street.
109. Park Street. Vehicles traveling west on Park Street shall stop at 12th Street.
110. Pine Street. Vehicles traveling east on Pine Street shall stop at 5th Street.
111. Pine Street. Vehicles traveling on Pine Street shall stop at 6th Street.
112. Pine Street. Vehicles traveling on Pine Street shall stop at 7th Street.
113. Pine Street. Vehicles traveling on Pine Street shall stop at 10th Street.
114. Pine Street. Vehicles traveling on Pine Street shall stop at 12th Street.
115. Pine Street. Vehicles traveling on Pine Street shall stop at 19th Street.
116. Pine Street. Vehicles traveling west on Pine Street shall stop at 23rd Street.
117. Ridgeway Drive. Vehicles traveling south on Ridgeway Drive shall stop at Hawkeye Avenue.
118. 2nd Street. Vehicles traveling north on 2nd Street shall stop at Cyclone Avenue.

119. 2nd Street. Vehicles traveling on 2nd Street shall stop at Exchange Street.
120. 7th Street. Vehicles traveling south on 7th Street shall stop at Broadway Street.
121. 7th Street. Vehicles traveling south on 7th Street shall stop at Market Street.
122. 7th Street. Vehicles traveling south on 7th Street shall stop at Chatburn Avenue.
123. Shelby Street. Vehicles traveling north on Shelby Street shall stop at Hawkeye Avenue.
124. 6th Street. Vehicles traveling north on 6th Street shall stop at Court Street.
125. 6th Street. Vehicles traveling north on 6th Street shall stop at Cyclone Avenue.
126. 6th Street. Vehicles traveling north on 6th Street shall stop at Main Street.
127. 6th Street. Vehicles traveling south on 6th Street shall stop at Broadway Street.
128. Southwest Avenue. Vehicles traveling north on Southwest Avenue shall stop at Chatburn Avenue.
129. Southwest Avenue. Vehicles traveling south on Southwest Avenue shall stop at 12th Street.
130. Spring Street. Vehicles traveling east on Spring Street shall stop at 5th Street.
131. Spring Street. Vehicles traveling on Spring Street shall stop at 6th Street.
132. Spring Street. Vehicles traveling on Spring Street shall stop at 7th Street.
133. Spring Street. Vehicles traveling on Spring Street shall stop at 9th Street.
134. Spring Street. Vehicles traveling west on Spring Street shall stop at 10th Street.
135. Tarkington Street. Vehicles traveling west on Tarkington Street shall stop at 12th Street.
136. Tarkington Street. Vehicles traveling on Tarkington Street shall stop at 7th Street.

137. Tarkington Street. Vehicles traveling on Tarkington Street shall stop at 6th Street.
138. Tarkington Street. Vehicles traveling on Tarkington Street shall stop at 5th Street.
139. 3rd Street. Vehicles traveling on 3rd Street shall stop at Court Street.
140. Utility Avenue. Vehicles traveling north on Utility Avenue shall stop at Chatburn Avenue.
141. Victoria Street. Vehicles traveling on Victoria Street shall stop at 6th Street.
142. Victoria Street. Vehicles traveling on Victoria Street shall stop at 7th Street.
143. Victoria Street. Vehicles traveling on Victoria Street shall stop at 8th Street.
144. Victoria Street. Vehicles traveling west on Victoria Street shall stop at 12th Street.
145. Victoria Street. Vehicles traveling west on Victoria Street shall stop at 19th Street.
146. Walnut Street. Vehicles traveling east on Walnut Street shall stop at 5th Street.
147. Walnut Street. Vehicles traveling on Walnut Street shall stop at 6th Street.
148. West Court Street. Vehicles traveling west on West Court Street shall stop at 19th Street.
149. West Park Street. Vehicles traveling west on West Park Street shall stop at 19th Street.
150. Willow Street. Vehicles traveling west on Willow Street shall stop at 23rd Street.
151. Willow Street. Vehicles traveling on Willow Street shall stop at 10th Street.
152. Willow Street. Vehicles traveling on Willow Street shall stop at 17th Street.
153. Willow Street. Vehicles traveling on Willow Street shall stop at 6th Street.
154. Willow Street. Vehicles traveling east on Willow Street shall stop at 5th Street.

155. 7th Street. Vehicles traveling south on 7th Street shall stop at Cyclone Avenue.
156. Gary Scull Drive. Vehicles traveling south on Gary Scull Drive shall stop at both intersections of Dye Street.
157. Dye Street. Vehicles traveling west on Dye Street shall stop at 12th Street.
158. 7th Street. Vehicles traveling north on 7th Street shall stop at Broadway Street.
159. 6th Street. Vehicles traveling south on 6th Street shall stop at Main Street.
160. 6th Street. Vehicles traveling south on 6th Street shall stop at Cyclone Avenue.
161. 10th Street. Vehicles traveling on 10th Street shall stop at Cyclone Avenue.
162. 10th Street. Vehicles traveling on 10th Street shall stop at Tarkington Street.
163. Durant Street. Vehicles traveling on Durant Street shall stop at Harlan Community School Elementary School entrance.
(Ord. 2010-01 & 2010-02 – Sep. 10 Supp.)
164. 10th Street. Vehicles traveling south on 10th Street shall stop at Elm Street.
(Ord. 2011-04 – July 11 Supp.)
165. Baldwin Street. Vehicles traveling east and west on Baldwin Street shall stop at 5th Street.
(Ord. 2012-11 – Dec. 12 Supp.)
166. Market Street. Vehicles traveling north and south on 2nd Street shall stop at Market Street.
(Ord. 2015-01 – Feb. 15 Supp.)
167. 5th Street. Vehicles traveling north and south on 5th Street shall stop at Broadway Street.
(Ord. 2015-06 – Jul. 15 Supp.)
168. 10th and Tarkington Streets – traffic traveling east and west on Tarkington.
(Ord. 2015-07 – Sep. 15 Supp.)
169. 11th and Tarkington Streets – traffic traveling east and west on Tarkington.
(Ord. 2015-07 – Sep. 15 Supp.)
170. Franklin Avenue and Lincoln Avenue – vehicles traveling north and south on Franklin Avenue shall stop at Lincoln Avenue.
(Ord. 2016-02 – Jul. 16 Supp.)
171. 19th Street at Victoria – vehicles traveling north and south on 19th Street shall stop at Victoria Street.
172. Durant Street between 19th St. and 23rd St. – vehicles traveling east and west on Durant Street shall stop at the crosswalk between the

Harlan Community Elementary School and Middle School/High School
(between 19th and 23rd Streets).

(Ord. 2016-05 – Nov. 16 Supp.)

173. Cyclone Avenue: Vehicles traveling east on Cyclone Avenue shall stop at 1st Street during events. Vehicles traveling west on Cyclone Avenue shall stop at 1st Street during events. *(Ord. 2017-01 – Apr. 17 Supp.)*

65.02 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of 5th Street and Cyclone Avenue.
2. Intersection of 8th Street and Elm Street.
3. Intersection of 9th Street and Elm Street.
4. Intersection of 12th Street and Willow Street.
5. Intersection of 19th Street and Willow Street.
6. Intersection of 12th Street and Durant Street.
7. Intersection of 19th Street and Durant Street.
8. Intersection of 19th Street and Cyclone Avenue.
9. Highway 59 and Highway 44 (aka Chatburn Avenue).
10. Highway 59 and Cyclone Avenue.

(Ord. 2010-01 – Sep. 10 Supp.)

65.03 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

1. 4th Street and Cyclone Avenue. Vehicles approaching the intersection of 4th Street and Cyclone Avenue from the north, south and west shall stop before entering such intersection.
2. 7th Street and Durant Street. Vehicles approaching the intersection of 7th Street and Durant Street from the north, east and west shall stop before entering such intersection.
3. Industrial Avenue and Southwest Avenue. Vehicles approaching the intersection of Industrial Avenue and Southwest Avenue from the north, east and west shall stop before entering such intersection.
4. 12th Street and Walnut Street. Vehicles approaching the intersection of 12th Street and Walnut Street from the south, east and west shall stop before entering such intersection.

65.04 YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.345)

- NONE -

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

(Code of Iowa, Sec. 321.249)

1. Intersection of 8th Street and Victoria Street.
2. Intersection of 10th Street and Elm Street.
3. Intersection of College Place and College Boulevard.
4. Intersection of Hawkeye Avenue and Ridgeway Drive.
5. Intersection of Hawkeye Avenue and Country Club Parkway.

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

65.09 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. *(Repealed by Ord. 2007-10 – Dec. 07 Supp.)*
2. Intersection of 12th Street and Chatburn Avenue.
3. *(Repealed by Ord. 2007-10 – Dec. 07 Supp.)*

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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

(Code of Iowa, Sec. 321.471)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

1. 6th Street shall be northbound only from Pine Street north to Cyclone Avenue.
2. 7th Street shall be southbound only from Cyclone Avenue south to Pine Street.

(Ord. 2009-08 – Sep. 09 Supp.)

3. Market Street shall be westbound only between 3rd Street and 12th Street.
4. Court Street shall be eastbound only between 12th Street and 3rd Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.09 Commercial Vehicle Parking
69.02 Park Adjacent to Curb - One-way Street	69.10 Parking Limited to Fifteen Minutes
69.03 Angle Parking	69.11 Parking Limited to Two Hours
69.04 Angle Parking – Manner	69.12 Snow Removal
69.05 Parking for Certain Purposes Illegal	69.13 Snow Routes
69.06 Parking Prohibited	69.14 Controlled Access Facilities
69.07 Persons With Disabilities Parking	69.15 Mailboxes
69.08 No Parking Zones	69.16 Fire Lanes

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Court Street, on the south side, from 5th Street to 7th Street.
2. 6th Street, on the east side, from Court Street to Hill Street.
3. Market Street, on the north side, from 5th Street to 6th Street.
4. 7th Street, on the west side, from Market Street to Durant Street.

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within a diagonal parking

district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 hours from April 1 through October 31st and for no more than 18 hours from November 1 through March 31st, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes: *(Ord. 2014-03 – May 14 Supp.)*

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

1. Sale. Displaying such vehicle for sale;
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;
3. Advertising. Displaying advertising;
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
4. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
5. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
6. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])

7. 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])

8. 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])

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 Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358[13])

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

(Code of Iowa, Sec. 321.360)

14. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley

which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

15. 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])

16. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed unless a permit has been obtained in accordance with Chapter 141.

17. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

18. Event Only Parking at Veterans Memorial Auditorium. Parking at the Veterans Memorial Auditorium will only be allowed in conjunction with events being held there. All other parking is prohibited.

(Ord. 2014-04 – May 14 Supp.)

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

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

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

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

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

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

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

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

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A (1) of the Code of Iowa when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A (1) of the Code of Iowa.

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

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

1. 10th Street, on the east side, from Walnut Street to Baldwin Street.
2. 10th Street, on the east side, from Court Street to Market Street.
3. 10th Street, on both sides, from Broadway Street to Tarkington Street.
4. 10th Street, on the west side, from Tarkington Street to Park Street.
5. 10th Street, on the west side, from Court Street to Baldwin Street.
6. 10th Street, on the west side, from Walnut Street to Elm Street.
7. 11th Street, on the west side, from Tarkington Street to the alley.
8. 11th Street, on the west side, from Walnut Street to Elm Street.
9. 12th Street, on both sides, from the north City limits to the south City limits.
10. 14th Street, on the east side, from Durant Street to West Park Street.
11. 15th Street, on the east side, from Durant Street to West Park Street.
12. 16th Street, on the west side, from Willow Street to Pine Street.
13. 19th Street, on the west side, from Cyclone Avenue to Chatburn Avenue.
14. Baldwin Street, on the south side, from 13th Street to 15th Street.
15. Baldwin Street, on the south side, from 11th Street to 12th Street.
16. Baldwin Street, on the south side, from 5th Street to 6th Street.

17. Baldwin Street, on the north side, from 6th Street to 11th Street.
18. Baldwin Street, on the north side, from 4th Street to 13th Street.
19. Baldwin Street, here to corner, northwest ¼ block going west from 12th Street.
20. Baldwin Street, here to corner, going west from 1220 Baldwin Street to 13th Street.
21. Broadway Street, on the south side, from 4th Street to 7th Street.
22. Country Club View, on the east side, from Hawkeye Avenue to cul-de-sac.
23. Court Street, here to corner, south side, east of 12th Street.
24. Court Street, on the north side, from 8th Street to 12th Street.
25. Court Street, here to corner, south side, east of 10th Street.
26. Court Street, on the south side, from 5th Street to 4th Street.
27. Court Street, on the north side, from 1st Street to 3rd Street.
28. Cyclone Avenue, on both sides, from 4th Street to Highway 59.
29. Durant Street, on the south side, from 3rd Street to 4th Street.
30. Durant Street, on the north side, from 4th Street to 5th Street.
31. Durant Street, on both sides, from 10th Street to 12th Street.
32. Durant Street, here to corner, south side, east of 10th Street.
33. Durant Street, on the north side, from 12th Street to Highway 59.
34. 8th Street, on the west side, from Hill Street to Elm Street.
35. 8th Street, on both sides, from Hill Street to Cyclone Avenue.
36. Elm Street, on the north side, from 5th Street to 6th Street.
37. 13th Street, on the east side, from Durant St. to Baldwin St.
(Ord. 2016-06 – Nov. 16 Supp.)
38. Elm Street, on the south side, from 7th Street to 12th Street.
39. Farnam Street, on the north side, from 5th Street to 10th Street.
40. Farnam Street, on the north side, from 7th Street to 8th Street except on Sundays.
41. 5th Street, on the west side, from Court Street to Durant Street.
42. 5th Street, on both sides, from Cyclone Avenue to Dye Street.
43. 4th Street, on the east side, from Main Street to Dodge Street.

44. 4th Street, on the west side, from Cyclone Avenue to Hill Street.
45. 4th Street, on the west side from, Market Street to Baldwin Street.
46. 4th Street, here to corner, going east from 403 Baldwin Street to 4th Street.
47. Garfield Avenue, on the north side, from 19th Street to 21st Street.
48. Hill Street, on the north side, from 5th Street to 10th Street.
49. Hill Street, on the south side, from 4th Street to 5th Street.
50. Hill Street, on the south side , from here to corner at 8th Street.
51. Hill Street, on the south side, from here to corner at 7th Street.
52. Industrial Parkway, on the north side, from 12th Street to Highway 59.
53. Industrial Parkway, on the south side, from 12th Street to Highway 59.
54. Laurel Street, on the south side, from 6th Street to 10th Street.
55. Main Street, on the north side, from 6th Street to 11th Street.
56. Maplecrest Drive cul-de-sac between October 31 and April 1.
57. Market Street, on the south side, from 1st Street to 4th Street.
58. Market Street, on the south side, from 8th Street to 12th Street.
59. Morningview Drive, on the south side, from 12th Street to Veterans Memorial Auditorium.
60. 9th Street, on the west side, from Broadway Street to Chatburn Avenue.
61. Pine Street, on the north side, from 10th Street to 19th Street.
62. Pine Street, on both sides, from 19th Street to Highway 59.
63. Pine Street, on the south side, from Morse Avenue to 12th Street.
64. Pine Street, on the south side, from 6th Street to 10th Street.
(*Ord. 2012-02 – Apr. 12 Supp.*)
65. Ridgeway Drive, on the east side, from Hawkeye Avenue to Highway 59.
66. 2nd Street, on the west side, from Market Street to Court Street.
67. 7th Street, on the east side, from Broadway Street to Cyclone Avenue.
68. 7th Street, on the west side, from Baldwin Street to Victoria Street.
69. 7th Street, on the east side, from Victoria Street to Pine Street.
70. 7th Street, on both sides, from Pine Street to Chatburn Avenue.

71. 7th Street, here to corner, west side Laurel to Pine.
72. 7th Street, in driveway, between Baldwin Street and Victoria Street.
73. Shelby Street, on both sides, from Hawkeye Avenue to Industrial Parkway.
74. 6th Street, on the east side, from 2314 6th Street south to Chatburn Avenue.
75. 6th Street, on the east side, from Elm Street south 100 feet.
76. 6th Street, on both sides, from Pine Street to Elm Street.
77. 6th Street, on the west side, from Cyclone Avenue to Broadway Street.
78. 6th Street, here to corner, east side from Broadway Street.
79. 6th Street, on the west side, from Chatburn Avenue to Elm Street.
80. 6th Street, on the west side, from Pine Street to Durant Street.
81. Spring Street, on the north side, from 5th Street to 7th Street.
82. Spring Street, on the south side, from 7th Street to 9th Street.
83. Spring Street, on the north side, from 9th Street to 10th Street.
84. Tarkington Street, on the south side, from 10th Street to 11th Street.
85. Trakington Street, on the north side, from 7th Street to 10th Street.
86. Tarkington Street, on the south side, from 6th Street to 7th Street.
87. 3rd Street, on the west side, from Durant Street to Court Street.
88. 3rd Street, on the east side, from Hill Street to Court Street.
89. Victoria Street, on the north side, from 5th Street to 6th Street.
90. Victoria Street, on the north side, from 8th Street to 12th Street.
91. Walnut Street, on the north side, from 7th Street to 12th Street.
92. Walnut Street, on the south side, between signs east of 12th Street.
93. West Park Street, on the south side, from 19th Street east to dead end.
94. Willow Street, on both sides, from 12th Street to 19th Street.
95. Willow Street, on the south side, from 5th Street to 12th Street.
96. Willow Street, here to corner, north side at 1112 Willow Street.

97. Willow Street, south side, ¼ block going east from 5th Street.
98. 7th Street, on both sides, from Baldwin Street to Hill Street on Saturdays between the hours of 3:00 a.m. and 6:00 a.m.
99. 6th Street, on both sides, from Durant Street to Hill Street on Saturdays between the hours of 3:00 a.m. and 6:00 a.m.
100. Industrial Avenue, on the north side, from Southwest Avenue, 925 feet east. *(Ord. 2008-15 – Dec. 08 Supp.)*
101. Dye Street on the north side from 7th Street west to Gary Scull Drive.
102. Gary Scull Drive. Starting at Dye Street 1 block west of 7th Street, on the east, north and west side of Gary Scull Drive.
103. Dye Street on the south side from 12th Street east to the south cul-de-sac then north on the east side. *(Ord. 2009-10 – Sep. 09 Supp.)*
104. Hill Street on the north side from 10th Street to 12th Street. *(Ord. 2011-01 – Apr. 11 Supp.)*
105. Hawkeye Avenue on both sides from 12th Street to Country Club Parkway.
106. Hawkeye Avenue on the north side from County Club Parkway to Highway 59. *(Ord. 2011-02 – Apr. 11 Supp.)*
107. Country Club View, between signs on west side of street, just south of cul-de-sac. *(Ord. 2011-06 – Aug. 11 Supp.)*
108. West Park Street, on the south side, from the intersection with 19th Street 77' to the east (No Parking to Corner). *(Ord. 2012-01 – Mar. 12 Supp.)*
109. Victoria Street, on the north side, from the west side of the driveway at 1632 Victoria Street west to 19th Street. *(Ord. 2012-04 – Aug. 12 Supp.)*
110. McKinley Avenue, on the north and west side from College Place to Garfield Avenue. *(Ord. 2012-10 – Dec. 12 Supp.)*
111. West side of 8th Street from Euclid Street to the Norman D. Stamp Aquatic Center entrance. *(Ord. 2015-10 – Oct. 15 Supp.)*

69.09 COMMERCIAL VEHICLE PARKING. No person shall park a commercial vehicle, as defined in Section 321.1 of the Code of Iowa, in violation of the following regulations.

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

1. Business District. Excepting only when commercial vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Two Hour Limit. Commercial vehicles which are not engaged in the delivery or receiving of merchandise or cargo shall not be parked upon any City street for a period of time longer than two (2) hours and no such vehicle shall dolly down on any City street or alley,.

69.10 PARKING LIMITED TO FIFTEEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than fifteen (15) minutes upon the following designated streets:

1. Seventh Street at the Post Office.
2. Market Street, on north side, just east of 8th Street for Can Place.
(Ord. 2011-02 – Apr. 11 Supp.)

69.11 PARKING LIMITED TO TWO HOURS. It is unlawful to park any vehicle for a continuous period of more than two (2) hours between the hours of eight o'clock (8:00) a.m. and five o'clock (5:00) p.m. on each weekday upon the following designated streets:

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

1. Court Street, on both sides, from 5th Street to 8th Street.
2. Durant Street, on both sides, from 6th Street to 8th Street.
3. 8th Street, on east side, from alley north to Hill Street.
(Ord. 2011-02 – Apr. 11 Supp.)
4. 5th Street, on both sides, from Court Street to Market Street.
5. Market Street, on both sides, from 5th Street to 8th Street.
6. 7th Street, on both sides, from Baldwin Street to Hill Street.
7. 6th Street, on both sides, from Durant Street to Hill Street.

69.12 SNOW REMOVAL.

1. The Public Works Director, in consultation with the Street Superintendent and Police Chief, shall formulate a snow and ice control program which shall be adopted by resolution of the Council.
2. In the event of a snow emergency, as set out in the snow and ice control program, no person shall park, abandon or leave unattended any vehicle on any public street, alley or City-owned off-street parking area

during any snow emergency unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. During such emergency, parking is specifically prohibited on north-south streets between the hours of eight o'clock (8:00) a.m. and twelve o'clock (12:00) noon and on east-west streets between the hours of one o'clock (1:00) p.m. and five o'clock (5:00) p.m. unless the cleaning operations have been completed.

69.13 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

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

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

69.15 MAILBOXES.

1. No person shall block a mailbox so as to impede the delivery of mail to that box. If a postal vehicle does not have clear, unimpeded access to the mailbox, it shall be deemed to be blocked.
2. It is unlawful to place any mailbox where any part of the box extends to closer than six inches (6") from the back of the curb, or in close enough proximity to the traveled portion of a street or alley so as to interfere with the operation of snow removal equipment. The City shall not be liable for replacing mailboxes installed in violation of this section or so as to interfere with the operation of equipment used in removing the snow from the traveled portion of the street or alley. If a snow removal equipment hits a mailbox that has been properly installed, the City will replace the mailbox for a value of up to \$50.00. If the property owner desires to replace the mailbox the City will reimburse the owner for up to a cost of \$50.00 upon submittal of bills and inspection of the location by City staff. Each 24-hour period that a violation continues to exist shall constitute a separate offense.

(Ord. 2009-09 – Sep. 09 Supp.)

69.16 FIRE LANES. No person shall stop, stand or park a vehicle in a designated fire lane established pursuant to the International Fire Code (See Chapter 155).

(Ord. 2016-07 – Nov. 16 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6, 321.485)

70.02 SCHEDULED VIOLATIONS. For violations of the Traffic Code which are designated by Section 805.8A of the Code of Iowa to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the Code of Iowa.

(Code of Iowa, Sec. 805.8 & 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for snow route parking violations and ten dollars (\$10.00) for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

(Code of Iowa, Sec. 321.236[1a] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.08 Speed

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. “All-terrain vehicle” or “ATV” means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the Code of Iowa, but that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

A. “Off-road utility vehicle – type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – type 2” includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Ord. 2014-14 – Nov. 14 Supp.)

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

(Ord. 2012-08 – Oct. 12 Supp.)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

(Ord. 2012-08 – Oct. 12 Supp.)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles may be operated on any streets in the City except for the following:

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

A. The City Square and one block in each direction from the square.

B. On 6th, 7th, 12th and 19th Streets from Chatburn Avenue (Highway 44) to Cyclone Avenue.

C. On Chatburn Avenue (Highway 44) and Cyclone Avenue for their entire lengths.

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

3. **Railroad Right-of-way.** Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

4. **Trails.** Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4 g])

5. **Parks and Other City Land.** Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. **Sidewalk or Parking.** Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. **Streets.** ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. **Trails.** ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. **Railroad Right-of-way.** ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other

provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

75.08 SPEED. No person shall operate a snowmobile or ATV in excess of thirty (30) miles per hour.

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Roller Skates and Skateboards

76.11 Towing

76.12 Improper Riding

76.13 Parking

76.14 Equipment Requirements

76.15 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

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

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

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

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

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

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

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

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle, skateboard or roller skates upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

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

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

4. Motorized Vehicles. No motorized vehicles, other than those ridden on or used by persons with disabilities or vehicles being utilized for snow removal operations, shall be operated on sidewalks in the City.

76.10 ROLLER SKATES AND SKATEBOARDS. No roller skates or skateboards may be ridden on any street or City-owned parking lots.

76.11 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.12 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.13 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

76.14 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

76.15 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

GOLF CARTS

77.01 Purpose
77.02 Operation of Golf Carts Permitted
77.03 Prohibited Streets

77.04 Equipment
77.05 Hours

77.01 PURPOSE. The purpose of this chapter is to approve the operation of golf carts on the streets of the City.

77.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid Iowa driver's license, except as prohibited in Section 77.03 of this chapter.

77.03 PROHIBITED STREETS.

1. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension.
2. Golf carts shall not be operated in the following areas:
 - A. On 6th, 7th, 12th and 19th Streets from Chatburn Avenue to Cyclone Avenue;
 - B. On the City Square; or
 - C. On Chatburn Avenue or Cyclone Avenue for their entire lengths.

77.04 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow moving vehicle sign and a bicycle safety flag at all times during operation and shall have adequate brakes.

77.05 HOURS. Golf carts may be operated on City streets only between sunrise and sunset.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal

property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay a fifteen dollar (\$15.00) impoundment fee, plus five dollars (\$5.00) per day storage fee, plus towing charges if stored by the City.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any

balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 BOARD OF TRUSTEES. The management of the City's Waterworks Utility is the responsibility of the Utility Board of Trustees established and operated as described in Chapter 25 of this Code of Ordinances.

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CHAPTER 91

PRIVATE WATER WELL SYSTEMS

91.01 Application
91.02 Rules Adopted
91.03 Pumps

91.04 Well Terminal Location
91.05 Pitless Adapter Material and Installation
91.06 Private Water Well Systems

91.01 APPLICATION. The regulations in this chapter apply to any water system where plumbing fixtures are installed within the City. Pumps shall be installed only in wells and springs that comply with the rules and regulations as determined by the Harlan Municipal Utilities and the City. There shall be no cross-connection between an individual water supply system and other individual or public water supply system. The residential properties having a private water well system for human consumption will be disconnected from the City Water System. No water supply shall serve more than one (1) property.

91.02 RULES ADOPTED. Iowa Administrative Code 567, Chapter 49, *Nonpublic Water Supply Wells*, is hereby adopted as the rules for private water well systems within the City, except as modified in this chapter.

91.03 PUMPS. Pumps shall be as follows:

1. Pumps shall be certified under Water Systems Council Testing and Rating Standards.
2. Pumps shall be installed in accordance with the manufacturer's recommendations.
3. Pumping equipment shall be installed to prevent the entrance of contamination or objectionable material either into the well or into the water that is being pumped.
4. The pump shall be located to facilitate necessary maintenance and repair, including overhead clearance for removal of drop pipe and other accessories.
5. The pump shall be suitably mounted to avoid objectionable vibration and noise and to prevent damage to pumping equipment.
6. The pump controls and/or accessories shall be protected from weather.

91.04 WELL TERMINAL LOCATION. Well casing, curbs and pitless adapters shall terminate not less than twelve (12) inches above the finished ground surface or pump house floor and at least twenty-four (24) inches above the maximum high water level where flooding occurs. No casing shall be cut off or cut into below ground level except to install a pitless adapter.

91.05 PITLESS ADAPTER MATERIAL AND INSTALLATION. Pitless adapters designed to replace a section of well casing or for attachment to the exterior of a well casing shall be constructed of materials which provide strength and durability equal to the well casing. Installation shall be by threaded, welded or compression-gasketed connection to cutoff casing or attachment to the exterior wall of the casing and shall be watertight.

91.06 PRIVATE WATER WELL SYSTEMS.

1. Scope. The provisions of this chapter shall apply to all drinking (potable) and nondrinking (non-potable) private water wells to be constructed within the City of Harlan. The definition of private water wells is interpreted to include drinking and non-drinking water wells as defined in department rule 567 Iowa Administrative Code 135.2. This chapter shall not apply to test or monitoring wells used for soil and groundwater investigations.

2. Permit Required. No person shall construct a private well in the City of Harlan unless the person obtains a permit from the City of Harlan Health Officer who is contracted through the Shelby County Environmental Health Department. This permit shall be in addition to any permits required by the county or state.

3. Permit Process. Any person desiring a well permit shall make application to the City on the prescribed form. The City of Harlan Health Officer shall determine the necessary information to be included on the application.

A. Any person wanting a potable private well permit shall make application to the City on the prescribed form. Prior to the issuance of the permit, a representative of the Harlan Municipal Utilities Board shall inspect the proposed location to ensure the potable well is at least 200 feet from the public water supply. The well shall remain separate from any public water supply. Further, the well shall not be constructed in an area the City of Harlan Health Officer considers to be contaminated or otherwise unsuitable for a private well.

B. Any person wanting a non-potable private well permit shall make application to the City on the prescribed form. Prior to the issuance of the permit, a representative of the Harlan Municipal Utilities Board shall inspect the proposed location to ensure the non-potable well is at least 200 feet from the public water supply. The well shall remain separate from any public water supply. Further the well shall not be constructed in an area the City of Harlan Health Officer considers to be contaminated or otherwise unsuitable for a private well.

If the City of Harlan Health Officer determines that the water is in an area of contamination or is otherwise unfit, he/she may deny the permit or make such limitation as to the use of the water from said private well as are necessary to protect life and property. In determining what the actual area of contamination is, the City of Harlan Health Officer shall consider current levels and areas of contamination, as well as where the contamination might reasonably be expected to expand to in the foreseeable future.

The City of Harlan Health Officer shall rule upon the permit application within 30 working days of the submittal of the completed application.

The applicant may appeal the decision of the City of Harlan Health Officer to the City Council by filing a written notice of appeal with the City of Harlan Health Officer within ten (10) business days of the decision. The City Council shall meet to determine the appeal within 45 days of the date the appeal is filed.

4. Permit Fee. Applicant shall apply for a permit to construct private water well system and pay a permit fee according to the fee schedule as set out in Chapter 155.04.

5. Penalty. Provisions of the adopted codes set out in Ch. 155.01 shall apply to all construction and reconstruction of private water well systems in the City, whether done by licensed individuals, firms, corporations, or companies or by any person excepted from the licensing requirement. Any person who shall violate any of the provisions of the Codes hereby adopted or fail to comply therewith or who shall violate or fail to comply with any order made thereunder, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate

offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

6. Abandonment of Permitted Wells. Any person with a permitted well is required to notify the City of Harlan Health Officer when the well is in disrepair or is no longer needed. The well shall be required plugged and sealed in accordance with the Department of Natural Resources regulations.

(Ord. 2014-12 – Nov. 14 Supp.)

[The next page is 445]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Definitions

95.02 Powers and Authority for Inspection

95.03 Notice to Correct

95.04 Other Remedies

95.05 Appeals

95.06 Damaging Sewer System

95.07 Treatment Required

95.08 Compulsory Connection to Public Sewer

95.01 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “Administrator” means the Administrator of the U.S. Environmental Protection Agency.
2. “BOD” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter.
3. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.
4. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
5. “Combined sewer” means a public sewer to be used as both a sanitary sewer and a storm sewer.
6. “Commercial user” means any user of the water pollution control facilities where business or commercial trade is conducted and not classified as an industrial user.
7. “Director” means the Director of the State Department of Natural Resources.
8. “Effluent criteria” are defined in any applicable NPDES permit.
9. “Federal Act” means the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq*) as amended by the Federal Water Pollution Control Act of Amendments of 1972 (*Pub. L. 92-500*) and (*Pub. L. 93-243*).
10. “Federal grant” means the U.S. Government participation in the financing of the construction of treatment works as provided for by Title

II, Grants for Construction of Treatment Works, of the Act and implementing regulations.

11. “Garbage” means solid animal and vegetable wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

12. “Industrial waste” or “process waste” means any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary wastes.

13. “Major contributing industry” means an industrial user of the publicly owned treatment works that:

A. Has a flow of 25,000 gallons or more per average work day; or

B. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste; or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

C. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under section 307 (a) of the Federal Act; or

D. Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

14. “Milligrams per liter” means a unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water.

15. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

16. “NPDES permit” means any permit or equivalent document or requirements issued by the Administrator or, where appropriate, by the Director to regulate the discharge of pollutants pursuant to the applicable sections of the Federal or State Act.

17. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection,

storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

18. "Operation and Maintenance" means the costs for operation and maintenance, including replacement costs.

19. "pH" means the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in *Standard Methods*.

20. "Population equivalent" means a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds (200 mg/l) of BOD, 0.20 pounds (240 mg/l) of suspended solids, and 0.03 pounds (40 mg/l) of ammonia-nitrogen (NH₃N) and 1.25 pounds (1,500 mg/l) sulfate.

21. "Pretreatment" means the treatment of wastewater from sources before introduction into the public sewer.

22. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

23. "Public sewer" means a sewer owned by and subject to the jurisdiction of the City. It also includes sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sewer system, even though these sewers may not have been constructed with City funds.

24. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the water pollution control plant to maintain the capacity and performance for which such plant was designed and constructed.

25. "Residential user" means any user of the water pollution control facilities where permanent residency is established and only sanitary wastes are discharged.

26. "SS" denotes "suspended solids" and means solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in *Standard Methods*.

27. “Sampling manhole” means a structure located on a building lateral for the purpose of providing access to sample or measure wastewater discharges.
28. “Sanitary sewer” means a public sewer that conveys wastewater, and into which storm, surface, ground and unpolluted waters are not intentionally admitted.
29. “Sanitary wastes” means any solid, liquid or gaseous substance discharged from residences, business buildings, institutions, commercial and industrial establishments contributed by reason of human occupancy.
30. “Sewage” is used interchangeably with “wastewater.”
31. “Sewer” means a pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and groundwater drainage.
32. “Shock load” means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation and may adversely affect the collection system or performance of the water pollution control facilities.
33. “Significant noncompliance” means:
- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
 - B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
 - C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
 - D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted

in the City's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;

F. Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance schedules;

G. Failure to accurately report noncompliance;

H. Any other violation which the City determines will adversely affect the operation or implementation of the local pretreatment program.

34. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any 15-minute interval more than three (3) times the average twenty-four (24) hour concentration of flows during normal operation and/or may adversely affect the collection system or performance of the water pollution control facilities.

35. "Standard Methods" means the examination and analytical procedures set forth in the most recent edition of *Standard Methods for the Examination of Water and Wastewater* published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation.

36. "State Act" means Chapter 455B of the Code of Iowa as the same now exists or may hereafter be amended.

37. "Storm sewer" means a public sewer which carries storm, surface and groundwater drainage but excludes wastewater other than unpolluted water.

38. "Superintendent" means the Water Pollution Control Superintendent of the City.

39. "TKN" denotes "Total Kjeldahl Nitrogen", the concentration of ammonia and organic nitrogen expressed in milligrams per liter.

40. "TSS" means total suspended solids.

41. "Unpolluted water" means water of quality equal to or better than the applicable effluent criteria in effect under the State or Federal Act or

water that would not cause violation of receiving water quality standards under the applicable act and would not be benefited by discharge to the sanitary sewers and water pollution control facilities provided.

42. “Useful life” means the estimated period during which the water pollution control facilities will be operated and shall be 30 years from the date of start-up of any water pollution control facilities constructed with a Federal grant.

43. “Wastewater” means the spent water of a community. It may be liquid or a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.

44. “Wastewater service charge” means the charge levied on all users of the water pollution control facilities.

45. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

46. “Water pollution control facilities” or “wastewater system” means the publicly owned structures, equipment, and processes required to collect, convey and treat wastewater.

47. “Water pollution control plant” means a publicly owned arrangement of devices and structures for treating wastewater. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “pollution control plant.”

48. “Water quality standards” are defined in the Iowa Departmental Rules.

95.02 POWERS AND AUTHORITY FOR INSPECTION.

1. Access to Private Property. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing with regard to wastewater in accordance with the provisions of this Code of Ordinances. The Superintendent shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers, natural outlets or water pollution control facilities.

2. Duty of Care. While performing the necessary work on private properties referred to in subsection 1 above, the Superintendent or other duly authorized employees of the City shall observe all safety rules applicable to the premises.

3. Easement Access. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the water pollution control facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement.

4. Indemnity. While performing the necessary work on private properties referred to herein, the City or its duly authorized employees shall observe all safety rules applicable to the premises established by the person and the person shall be held harmless for injury or death to the City employees, and the City shall indemnify the person against loss or damage to property by City employees and against liability claims and demands for personal injury or property damage asserted against said person and growing out of the observation, measurement and sampling operation, except as such may be caused by negligence or failure of the person to maintain safe conditions as required herein.

95.03 NOTICE TO CORRECT. Any person found to be violating any provisions of these sanitary sewer chapters shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Such notice may be given by certified mail or by personal service. If given by certified mail, the notice shall be deemed given when mailed. The offender shall, within the period of time stated in such notice, permanently cease all violations specified therein.

95.04 OTHER REMEDIES. Any person who shall violate any provisions of these sanitary sewer chapters shall be guilty of a misdemeanor, and each day in which such violation shall continue shall be deemed a separate offense. Any person violating any such provisions shall also be liable to the City for any damage, loss, cost or expense occasioned by reason of such violation. A violation of any such provisions shall be deemed to be a nuisance and the Council, after reasonable notice and opportunity for hearing, may:

1. Order necessary measures to correct and abate such violation and the Superintendent is authorized to enter on property to do so.
2. Order the service to the premises involved discontinued and authorize the Superintendent to disconnect any tapping or connections made to the wastewater system of the City. In the event a violation creates an immediate hazard to the wastewater facilities or to the operation thereof, or to the health and safety of any person or to the

preservation and protection of any property or prevents meeting the conditions of the NPDES permit, the Superintendent is authorized and directed to perform all necessary acts, without prior notice or hearing, to correct and abate such violations and may enter on private property to do so.

3. The cost of any measures to return any sewer or structure to its condition prior to the corrective acts of the Superintendent shall be borne by the person seeking to discharge to the sanitary sewer. Any damages to public or private property and damages, whether direct or indirect due to the loss of production, shall be borne by the person whose discharge was alleged to have created an immediate hazard, and subsequent corrective action.

The cost of any corrective measures required or permitted under the provisions of this section shall be a lien on the property served by the wastewater facilities in connection with which such violation has occurred and shall be levied and collected by the Council as ordinary taxes. In addition to any other remedies provided for, the City may bring suit to collect any sums due it, including user charges, from the person or persons incurring the liability for the payment of such charges.

95.05 APPEALS. If the findings, order or decision of the City made in pursuance of the provisions of this chapter are not acceptable to any person, such person shall have the right to appeal as follows. Two professional engineers shall be chosen, one by the industry and the other by the City, neither of whom shall be a regular employee of either party. Such persons shall act as consultants. As soon as such consultants are chosen, the City shall file with them a copy of the complaint and the decision of the Superintendent and it shall be the duty of such consultant to investigate the complaint and to agree either to affirm or reject the findings of the Superintendent and file a report with the City within a reasonable time, setting down their decision. If the consultants so chosen are unable to agree, they shall choose a third professional engineer, and the decision or recommendation of the majority shall be reported to the Council. Upon consideration of the report the Council will make a final decision which shall be reported to the persons and the Superintendent. The fees and expenses of the consultant appointed by the person shall be paid by the person and the fees and expenses of the consultant appointed by the City shall be paid by the City. The fees and expenses of the third consultant shall be equally divided between the person and the City.

95.06 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.

95.07 TREATMENT REQUIRED. It is unlawful to discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with provisions of these sanitary sewer chapters.

95.08 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 these sanitary sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so, provided that said public sanitary sewer is located within one hundred fifty (150) 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.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit Required
96.02 Application for Permit
96.03 Connection Charge
96.04 Reconnections/Alterations

96.05 Connection Requirements
96.06 Inspection Required
96.07 Property Owner's Responsibility
96.08 Abatement of Violations

96.01 PERMIT REQUIRED. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. Any connection to a public sewer within the jurisdiction of the City shall be subject to the rules and regulations of the City and to the charges, rates, rents, fees and assessments which are or may be established by the City as being applicable, and shall be made under permits issued by the City.

96.02 APPLICATION FOR PERMIT. There shall be two (2) classes of building sewer permits.

1. For residential and commercial service, and
2. For service to establishments producing industrial wastes.

In either case, the owner or agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the authorized City representative. The sewer connection charge shall be paid to the City at the time the application is filed. An industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity. The Superintendent shall determine where the connection shall be made and give such instructions as shall insure a good connection. The Clerk shall keep a permanent record of all applications received and permits granted and such other pertinent information in relation thereto as shall be of value or beneficial to the City.

96.03 CONNECTION CHARGE. A sewer connection charge shall be assessed for each new building sewer that is connected to the public sanitary sewer system in accordance with the following:

<u>USE</u>	<u>FEE</u>
<u>Residential</u>	
<u>Requiring 4" Sch. 40 PVC or clay connecting pipe:</u>	
Single-family dwellings.....	\$ 300.00
Single-family condominiums, town homes, etc., constructed and connected as single units	\$ 300.00

Two-family dwellings/duplexes	\$ 300.00
Condominiums, town homes, etc., constructed and connected as two (2) units	\$ 300.00
<u>Requiring 6" Sch. 40 PVC or clay connecting pipe:</u>	
Multi-Family Housing (3-12 units).....	\$ 500.00
(multiple duplexes/condos/apartment building)	
<u>Recommending 8" Sch. 40 PVC or clay connecting pipe*:</u>	
Multi-Family Housing (13+ units).....	\$ 700.00
(multiple duplexes/condos/apartment building)	
(*8" is negotiable)	

Commercial
Requiring 6" Sch. 40 PVC or clay connecting pipe . \$ 500.00

Industrial
Cost and size Sch. 40 PVC or clay connecting pipe. TBD
(Ord. 2006-09 – Dec. 06 Supp.)

96.04 RECONNECTIONS/ALTERATIONS. An inspection fee shall be charged for all reconnections or alterations to the public sewer system. The fee shall be based on the actual time required for the inspection, billed at \$20.00 per hour, with a minimum fee of \$20.00.

96.05 CONNECTION REQUIREMENTS. All installations of building sewers and connections to the public sewer shall be made by a State of Iowa licensed plumber. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.
(Ord. 2009-12 – Nov. 09 Supp.)

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *Plumbing Code*.

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

96.08 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner’s expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to

the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Discharge Prohibited	97.08 Alternatives Upon Filing of Application
97.02 Storm Sewers	97.09 Terms and Conditions of Discharge Permit
97.03 Storm Water	97.10 Change of Discharge Permit
97.04 Illegal Connections	97.11 Permit Transfer Prohibited
97.05 Accidental Discharges	97.12 Termination
97.06 Discharge Prohibited Except by Permit	97.13 Monitoring
97.07 Discharge Permit Application	97.14 Testing of Wastes

97.01 DISCHARGE PROHIBITED. No person shall discharge or cause to be discharged any of the following described substances, materials, waters and/or wastes into any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other inflammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to deteriorate any public sewer, injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the water pollution control plant.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to the public sewer or structures, equipment, and personnel of the water pollution control facilities, or operation thereof.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the water pollution control plant such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

97.02 STORM SEWERS. No wastewater except unpolluted waters shall be discharged to storm sewers. Storm waters and all other unpolluted water shall be discharged into such sewers as are specifically designed and designated as storm sewers or to a natural outlet approved by the City.

97.03 STORM WATER. *(Repealed by Ord. 2014-11 – Nov. 14 Supp.)*

97.04 ILLEGAL CONNECTIONS. Any connections which discharge prohibited materials shall be considered illegal and shall be subject to immediate removal by owner of the premises so connected and at such owner's expense. Should the owner of such an illegally connected premises fail to remove the connection within sixty (60) days, the City shall cause the connection to be removed and the cost thereof shall be billed to the owner of the premises.

97.05 ACCIDENTAL DISCHARGES. The accidental discharge of any prohibited liquid, gaseous, or solid material into any public sewer or natural outlet, either directly or indirectly, shall be reported to the Superintendent immediately by the person responsible for the discharge. Although no penalty, as such, will be levied as a result of such accidental discharge, it shall be understood that the person shall not be relieved of its responsibilities and shall be liable for any expense, loss or damage occasioned by the City by reason of such accidental discharge.

97.06 DISCHARGE PROHIBITED EXCEPT BY PERMIT. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes without a permit issued pursuant to Section 97.07.

1. Any water or wastes excluding sanitary wastes having:
 - A. 5-day BOD greater than 0.17 pounds (200 mg/l) of BOD,
 - B. Suspended solids concentration greater than 0.20 pounds (240 mg/l),
 - C. Average daily flow greater than two percent (2%) of the average sewage flow of the City,
 - D. Ammonia-nitrogen (NH₃N) greater than 0.03 pounds (40 mg/l),
 - E. Sulfate greater than 1.25 pounds (1,500 mg/l).
2. Any liquid or vapor having a temperature higher than 120° Fahrenheit (48° Centigrade).
3. Any water or wastes which contain grease, fats, wax, or oil, whether emulsified or not, in excess of 100 mg/l, or other substances that will solidify or become discernibly viscous at temperatures between 32° and 150° Fahrenheit (0° to 65° Centigrade).
4. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor

of 3/4 horsepower (0.75 hp. metric) or greater shall be subject to the review and approval of the Superintendent.

5. Any water or wastes containing non-edible type oil or grease such as petroleum or mineral oil or grease.

6. Any water or wastes that contain more than 10 parts per million by weight of the following gases: hydrogen sulfide, sulfur dioxide, or nitrous oxide.

7. Any water or wastes that contain phenols or other taste and odor producing substances, in excess of 0.5 parts per million by weight.

8. Any water or wastes, acid or alkaline in reaction, and having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the City.

9. Any water or wastes containing any of the constituents listed in this section or any other objectionable or toxic substances.

10. Any water or wastes containing the discharge of strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

11. Any noxious or malodorous gas or substances which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State and Federal regulations.

13. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.

14. Any water or wastes containing substances which are not amenable to treatment or reduction by the water pollution control processes employed, or are amenable to treatment only to such a degree that the water pollution control plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving water.

15. Any water or waste which by interaction with the other water or wastes in the public sewer system, releases obnoxious gases or develops color of undesirable intensity; or forms suspended solids in objectionable concentration; or creates any other conditions deleterious to structures and treatment processes, shall be subject to control or shall be banned from the system as determined by the Superintendent.

16. Any wastes, which in the opinion of the Superintendent may harm either the public sewers, water pollution control plant, treatment process, equipment, or have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction in the sewers, nature of the treatment processes, capacity of the water pollution control facilities, degree of treatability of waste in question, and other pertinent factors. Factors influencing this ruling and known conditions at the time of this ruling shall be recorded by the Superintendent in the plant file at the time the ruling is made.

97.07 DISCHARGE PERMIT APPLICATION. Any person discharging the described substances, materials, waters or wastes as defined in Section 97.06 or any industrial user shall file an application for a discharge permit with the Superintendent. The application shall contain the following information.

1. Name and address of owner;
2. Title of official making such application;
3. Location of plant;
4. The nature of business conducted in such plant;
5. The volume of industrial waste mixture and sewage discharged by each plant;
6. The average daily number of employees employed in each plant by shifts;
7. The source of water supply of each plant and the volume of water used by each such plant daily, specified separately as to each source;
8. Such additional information as is deemed applicable to ascertain the volume, nature and composition of industrial waste so discharged.

97.08 ALTERNATIVES UPON FILING OF APPLICATION. Upon receiving the application, the Superintendent' alternatives are as follows:

1. Accept the wastes,

2. Reject the wastes,
3. Require pretreatment to an acceptable condition for discharge to the public sewers,
4. Require control over the quantities and rates of discharge, and/or
5. Require payment to cover the added cost of handling and treating the wastes not covered by wastewater service charges under the provisions of Chapter 99.

97.09 TERMS AND CONDITIONS OF DISCHARGE PERMIT.

1. Terms. All wastewater discharge permits shall be expressly subject to all provisions of this chapter and all rates and charges established by the City. All permits shall be renewed annually. Permits may be terminated or a new permit required following the annual review. All permits shall contain the following terms:

- A. The daily average and maximum wastewater flow volumes.
- B. The average and maximum limits on the constituents of the discharger's wastewater.

2. Conditions. Wastewater discharge permits may contain any or all of the following conditions.

A. For discharges which will require pretreatment to meet the terms of the permit:

(1) Facilities Approval. Plans, specifications and other pertinent information relating to such treatment facilities shall be submitted for the approval of the City and no construction of such facilities shall be commenced until said approval is obtained in writing.

(2) Facilities Maintenance and Records. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense and shall be subject to periodic inspection by the City. The owner shall maintain operating records and shall submit to the City a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities.

B. Limits on rate and time of discharge or requirements for flow regulation and equalization.

- C. Requirements for sampling manhole, including City access to such facilities.
- D. Monitoring program which may include: sampling locations; frequency and method of sampling; number, types and standard of tests; and establishing a reporting schedule. The discharger assigned a monitoring program in conformance with this chapter shall pay all applicable City charges.
- E. Submission of technical reports or discharge reports.
- F. Maintenance of plant records relating to wastewater discharges, as specified by the Superintendent and affording City access thereto.
- G. Other conditions as deemed appropriate by the Superintendent to insure compliance with this chapter or the terms and conditions of the permit.

97.10 CHANGE OF DISCHARGE PERMIT. The Superintendent may change the terms and conditions of a wastewater discharge permit, including changing the average limits of the constituents of the wastewater, from time to time as circumstances may require. The Superintendent shall allow a discharger reasonable time to comply with any required changes in the permit except that a change in average limits of wastewater strength shall immediately affect calculation of the sewage service charge.

97.11 PERMIT TRANSFER PROHIBITED. A wastewater discharge permit shall not be assigned or transferred.

97.12 TERMINATION. The Superintendent may terminate any wastewater discharge permit for violation of the terms and conditions of the permit or the provisions of this chapter. A permit shall be terminated if the discharger exceeds the maximum allowable discharge limits. A person whose permit has been terminated shall apply for a new permit within thirty (30) days of notice of termination. Any person whose permit has been terminated shall pay wastewater service charges based upon the former permit until a new permit has been applied for, approved, and issued.

97.13 MONITORING. All users of the water pollution control facilities may be subject to having their waste recycling records reviewed and/or their waste discharge monitored by the City. All permit users and special rate users shall have their process waste discharge monitored not less than semi-annually by the City. The frequency of monitoring shall be stipulated in the discharge permit and shall be carried out in the following manner:

1. Sampling Manhole. Any permit user discharging wastes into the City's sanitary sewers shall, if required by the City, construct a suitable sampling manhole, downstream from any treatment, storage tank or other approved works, to facilitate observations, continuous measurements and sampling of all such wastes from the industry. Continuous sampling shall be by an automatically operated sampling device. Continuous flow measurement shall be indicating, recording and totalizing. Where pH control is necessary, or where other waste characteristics require special control, suitable waste monitoring equipment shall be installed by the user to monitor and record those waste characteristics being controlled. The sampling manhole shall be accessible to authorized City personnel on a twenty-four (24) hour basis, and it shall be constructed in accordance with plans approved by the Superintendent. The control structure shall be installed by the owner, at the owner's expense, and shall be maintained by the owner to be safe, accessible, and in operating condition at all times. In its sole discretion, the City may waive the requirement for a sampling manhole if the user agrees to pay wastewater service charges required under Chapter 99 of this Code of Ordinances and that the strength of waste on which the service charge is based be based on tests of comparable strength wastes discharged by similar industries, if such information is available; if not, by such other methods as the City may wish to employ. Whatever method is used for finding the strength of the waste, the determination of the City shall be binding as a basis for charges.

2. Flow Measurement. The volume of flow used in computing wastewater service charges shall be based upon actual in-situ flow measurements. In the event the City finds it is not practical to measure either the actual sewage and industrial waste flow or the flow of diverted water, it may at its discretion approve some other manner of computing or estimating the amount of water diverted from or discharged to the public sanitary sewerage system. Also, in the event that the City finds it is not practical to make an actual measurement of the waste discharge from the premises of the customer into the public sanitary sewer system, the City may at its discretion accept as the volume of waste discharged from the premises that are shown by water meters of the City. Where a person discharging wastes into the sanitary sewers of the City procures any part, or all of, said person's water supply from sources other than the Harlan Municipal Utilities, all or part of which is discharged into the sanitary sewer, the person discharging said waste shall install and maintain, at said person's own expense, water meters of a type approved by the City for the purpose of determining the proper volume of flow to be charged.

97.14 TESTING OF WASTES. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*. Samples for testing shall be collected at the sampling manhole. In the event that no sampling manhole has been required, the sampling manhole shall be considered to be the nearest downstream control structure in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the water pollution control facilities and to determine the existence of hazards.

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

WASTEWATER SERVICE CHARGES

99.01 Basis for Charges
99.02 Charges
99.03 Surcharge Factor
99.04 Measurement of Flow
99.05 Charges Take Precedence
99.06 Payment of Bills
99.07 Lien for Nonpayment

99.08 Lien Notice
99.09 Revenues
99.10 Accounts
99.11 Access to Records
99.12 Annual Review
99.13 Notification
99.14 Lien Exemption

99.01 BASIS FOR CHARGES.

1. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the City shall consist of a basic user charge for operation and maintenance plus replacement and local capital financing charge and a surcharge, if applicable. The user charge shall be based on water usage as recorded by water meters and/or sewage meters for wastes having the following normal domestic wastewater concentrations:

- A. Average day, 20 degrees centigrade (20°C) biochemical oxygen demand (BOD) of 200 mg/l.
- B. A suspended solids (SS) content of 240 mg/l.
- C. An ammonia-nitrogen (NH₃N) content of 40 mg/l.
- D. An oil and grease content of 100 mg/l.
- E. A sulfate content of 1,500 mg/l.

2. The user charge shall consist of operation and maintenance costs plus replacement and shall be computed as follows:

- A. Estimate wastewater characteristics by volume, pounds of SS, pounds of BOD, pounds of NH₃N and pounds of oil and grease to be treated, and customer bills to be sent.
- B. Estimate the projected annual revenue required to operate and maintain the wastewater facilities including a replacement fund for the year, for all works categories.
- C. Proportion the estimated costs to wastewater facility categories by volume, SS, BOD, ammonia-nitrogen (NH₃N), oil and grease, and customer.

- D. Develop unit rates for volume, BOD, SS, and NH₃N, and oil and grease by dividing estimated costs in the preceding paragraph 3 by estimated wastewater characteristics in paragraph 1.
- E. Compute costs per 1000 gallons for normal domestic wastewater.
- F. Compute surcharge factor for multiplying time costs per 1000 gallons for BOD, SS, NH₃N, and oil and grease in excess of normal domestic wastewater. A surcharge will also be assessed for heavy metals or toxins that exceed acceptable limits. The charge will be determined according to the toxin or heavy metals involved.

99.02 CHARGES. Each user who in any way uses or discharges sanitary sewage, industrial waste, water or other liquid, either directly or indirectly, into the public sewer system shall pay for the services provided by the City in accordance with the following:

1. Fixed Base Charge.
 - A. Apartments and mobile homes, one meter per building or park, per month \$ 8.00
 - B. Apartments and mobile homes, one meter per unit or mobile home, per month \$ 8.00
 - C. Schools, per meter, per month \$ 8.00
 - D. All other, per meter, per month \$ 8.00
 (*Ord. 2015-05 – June 15 Supp.*)

2. Usage Charge. In addition to the fixed base charge, each user shall pay a usage charge for the services provided by the City based on said user’s use of the treatment works as determined by water meters acceptable to the City. The monthly charge shall be \$0.00486 per gallon of water metered, with provisions of the surcharge factor stated in Section 99.03 of this chapter. Monthly user charges will be based on water usage for the last billing period. Effective July 1, 2015, the annual operational maintenance rate increase will be 6.25% each year through June 30, 2018. On July 1, 2018 and forward, the annual operational maintenance rate increase will drop to 4%.
 (*Ord. 2015-05 – June 15 Supp.*)

3. Outside City Limits. The monthly fixed base charge and usage charge shall be increased by one hundred percent (100%) for all classes of users of the sanitary sewer system who are located outside of the

corporate limits of the City and who have been granted permission by the City to connect to such system.

4. Account Charge. Each new customer shall pay a non-refundable customer account charge of \$20.00.

99.03 SURCHARGE FACTOR. A surcharge factor shall be levied for the following customers, whose wastewaters exceed normal domestic wastewater:

Customer Type	Surcharge Factor
Laundries, including industrial and commercial laundries and Laundromats	1.2
Car washes	1.3
Restaurants, including quick serve and sit-down types, including within grocery stores	1.6
Bakeries	1.4
Schools, hospitals, nursing homes	1.4
Meat cutting/packaging (lockers, grocery stores)	1.3

99.04 MEASUREMENT OF FLOW. The volume of flow used for computing basic service charges and local capital financing charges shall be the metered water consumption read to the lowest even increment of 1,000 gallons.

1. If the person discharging wastes into the public sewers procures any part, or all, of said person’s water from sources other than the Harlan Municipal Utilities Water Department, all or a part of which is discharged into the public sewers, the person shall install and maintain, at said person’s expense, water meters of a type approved by the authorized City representative for the purposes of determining the volume of water obtained from these other sources.
2. Devices for measuring the volume of waste discharged may be required by the authorized City representative if these volumes cannot otherwise be determined from the metered water consumption records.
3. Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the authorized City representative.

99.05 CHARGES TAKE PRECEDENCE. The wastewater service charges established herein shall take precedence over any terms or conditions of agreements or contracts between the City and users which are inconsistent with the requirements of Section 204(b)(1)(a) of the Federal Act and the corresponding regulations.

99.06 PAYMENT OF BILLS. The wastewater service charge is due and payable with and under the same terms and conditions as payment for utility

services as established by the Utility Board of Trustees. Charges not paid when due shall be deemed delinquent and a delinquency charge of one and one-half percent (1.5%) of the amount due shall be added thereto. To the extent that the fees are billed as part of a combined service account, utility services may be discontinued if the account becomes delinquent.

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

(Code of Iowa, Sec. 384.84)

99.08 LIEN NOTICE. A lien for delinquent wastewater service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

99.09 REVENUES. All revenues and moneys derived from the operation of the sewerage system and water pollution control facilities shall be deposited in the wastewater account of the wastewater fund. All such revenues and moneys shall be held by the Clerk separate and apart from private funds and separate and apart from all other funds of the City and all of said sum without any deductions whatever shall be delivered to the Clerk not more than ten (10) days after receipt of the same, or at such more frequent intervals as may from time to time be directed by the Council. The Clerk shall receive all revenues from the sewerage system and water pollution control facilities and all other funds and moneys incident to the operation of such system as the same may be delivered to the Clerk and deposit the same in the account of the fund designated as the "Sewer Fund of the City." The Clerk shall administer such fund in every respect in the manner provided by statute of the Iowa Administrative Code.

99.10 ACCOUNTS. The Clerk shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the sewerage system and water pollution control facilities, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewerage system. In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the water pollution control facilities,

including a replacement cost, to indicate that the wastewater service charges do in fact meet these regulations. In addition to the proper system of accounts established for the transactions relating to the sewerage system and water pollution control facilities a Sewer Replacement Fund shall be established specifically for direct costs related to replacement of capital equipment. The City shall deposit into the Sewer Replacement Fund on an annual basis a minimum of \$200,000, or an amount to be calculated by the staff and approved by the Council.

99.11 ACCESS TO RECORDS. The State Department of Natural Resources or its authorized representative shall have access to any books, documents, papers, and records of the City which are applicable to the City system of user charges for the purposes of making audit, examination, excerpts, and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to any Federal or State Grant.

99.12 ANNUAL REVIEW. The adequacy of the wastewater service charge and connection and inspection fees shall be reviewed annually by the City. All charges shall be reviewed periodically as appropriate to insure that said charges generate sufficient funds for operation, maintenance and replacement of the sewerage system and water pollution control facilities and local capital financing requirements.

99.13 NOTIFICATION. The City shall notify each user at least annually of the rate being charged for operation, maintenance including replacement of the sewerage system and water pollution control facilities.

99.14 LIEN EXEMPTION. Residential rental property where a charge for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership.

The lien exemption does not apply to delinquent charges for repairs related to any of the services.

(Code of Iowa, Sec. 384.84)

(Ord. 2012-09 – Oct. 12 Supp.)

CHAPTER 100

SEWER EXTENSIONS

100.01 Permit Required

100.02 Permit Conditions; Inspection Required

100.03 Acceptance of Private Sewers

100.01 PERMIT REQUIRED. Persons desiring to construct a private sewer connecting with any public sanitary sewer shall file an application for a permit to build and connect such sewer with the Clerk. Such application shall have attached to it a complete plan and details of construction with all pertinent data relating thereto. Such application shall be presented to the Council for its consideration, and in the event the same is allowed, the Council will furnish to the applicant detailed specifications as to the type of construction and materials required to be used therein and provide for the construction of manholes or other clean-outs as shall be necessary to properly maintain and service such private sewer. All specifications furnished by the Council shall be according to approved construction standards and practices.

100.02 PERMIT CONDITIONS; INSPECTION REQUIRED. Any permit granted for the construction of a private sanitary sewer shall be upon condition that the owner thereof shall allow any adjacent or abutting property owner to make connection thereto or at any time thereafter upon such reasonable terms of compensation as the Council may by resolution decide and fix, including all connection fees imposed under the provisions of this chapter. After allowance of such application, an inspection shall be made of such private sanitary sewer during the construction thereof at such times as in the plumbing inspector's judgment shall be necessary to require compliance with the provisions of the permit.

100.03 ACCEPTANCE OF PRIVATE SEWERS. Any private sewer constructed or laid out within the City limits of the City and paid for out of private funds, and which private sewer is to be offered to the City as a public sewer, may be accepted by the City as a public sewer provided:

1. Such sewer so proposed to be dedicated meets the requirements of the City as to construction; and
2. At the time of the proposed dedication to the City of such private sewer, there shall have been no hookups or connections made to the private sewer by abutting property owners.

In the discretion of the Council, any such private sewer offered to be dedicated to the City which has at such time one or more hookups or connections to such private sewer may be accepted by the City upon payment to the City of all hookup or connection fees which may have been paid to the owner or owners of said private sewer or due to the City as a hookup or connection fee.

CHAPTER 101

SUMP PUMP, ROOF DRAINS, AND GROUNDWATER STANDARDS

101.01 Intent	101.06 Surcharge
101.02 Prohibited Water	101.07 Nuisance
101.03 Sump Pump and Rigid Pipe Installation	101.08 Penalty
101.04 Inspections	101.09 Hearing
101.05 Removal of Connections	

101.01 INTENT. The intent of this chapter is to establish rules and regulations governing the installation, use and discharge of sump pumps, roof drains, or other groundwater conveyance systems and to establish the penalty structures required to enforce said rules and regulations. The rules and regulations governing the use of sump pumps, roof drains, or other groundwater conveyance systems are being established:

1. To meet Iowa Department of Natural Resources National Pollutant Discharge Elimination System (NPDES) Permit requirements and Federal Clean Water Act mandates.
2. To set forth uniform requirements for the installation, use and discharge of sump pumps, roof drains, or groundwater conveyance systems.
3. To prevent the introduction of clean surface water, including, but not limited to, water from roof or cellar drains, springs, basement sump pumps and French drains.
4. Because the City finds it essential to the maintenance of health, minimization of damage to property, and to maintain and preserve the life and capacity of the municipal wastewater infrastructure.

101.02 PROHIBITED WATER.

1. It is unlawful for any owner, occupant or user of any premises to direct into or allow any storm water, surface water, ground water, well water, or water from industrial or commercial air conditioning systems (residential properties may have a twenty (20) gallon per day maximum discharge from air conditioning systems) to drain into the wastewater collection system. No rainspout, or other form of surface drainage, and no foundation drainage or sump pump shall be connected or discharged into any wastewater collection system.

2. Any new or existing construction in which a sump and pump have been or will be installed shall be required to install, inside the structure, a rigid pipe connection discharge in accordance with this chapter. It is unlawful to maintain any connection with the sanitary sewer carrying roof water, ground water, surface water, or any other natural precipitation.

101.03 SUMP, PUMP, AND RIGID PIPE INSTALLATION.

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

2. No discharge shall be directed so as to impact neighboring properties.

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

4. Any licensed (by the State of Iowa) plumber who knowingly installs a sump, pump, and/or piping within the Harlan City limits that is not in conformance with this chapter may be prohibited from performing any plumbing work within the City of Harlan for a period of one (1) year, following the opportunity for a hearing before the City Council. Said plumber may appeal the decision of the City by filing a written notice of appeal with the City Administrator within ten (10) business days of the City's decision. The City Council shall meet to determine the appeal within 45 days of the date the appeal is filed. See 101.09.

101.04 INSPECTIONS. Property owners shall allow a City employee or a designated representative, satisfactory to the City, to inspect the building to confirm and document that there is no sump pump or other prohibited discharge into the wastewater collection system. The City may periodically re-inspect any building or premises to determine compliance with the requirements of this chapter. The City of Harlan does not monitor property ownership records, so prior to finalizing the change in ownership of a property, the existing owner must notify the City of the pending change of ownership. When ownership of any home or other building is transferred, the building must have a re-inspection completed and passed prior to the deed transfer.

101.05 REMOVAL OF CONNECTIONS.

1. All direct or indirect connections of a footing drain, foundation drain, roof downspouts, sump pump, sump pit, or similar system or

device intended to collect and convey groundwater along, adjacent to, beside or under the footing, foundation or basement of any building shall be disconnected from the sanitary sewer system within one hundred and eighty (180) days after the public notice is published by the City Clerk. In addition, a notice will also be included in the following month's sewer bill. Disconnection shall mean removal of any direct or indirect connection to the sanitary system, including direct connections to the sanitary sewer service, connections to a sanitary sewer floor drain or similar plumbing fixture that would allow footing drain flow to enter the sanitary sewer system.

2. Any property owner who previously made any connection or installation in violation of this chapter shall immediately remove such connection or correct such an installation. If not removed or corrected within thirty (30) calendar days after notice of the violation has been delivered personally or by certified mail to the owner, the City shall impose a surcharge in the amount provided by this chapter. The time frame for making corrections may be extended upon the approval of the City Administrator for up to ninety (90) days for cause, beyond the initial thirty (30) day period.

3. The owner of a building or premises found to not be in conformance with this chapter during periodic re-inspections shall be subjected to a surcharge as provided herein, starting from the previous date of inspection.

101.06 SURCHARGE.

1. Any property owner or contractor/builder refusing to allow the property under their control to be inspected in accordance with this chapter, in order to determine compliance, shall within thirty (30) days of the date that admittance to the property is refused or denied, immediately become subject to a monthly surcharge which shall be applied to the sanitary sewer component of their utility bill. This surcharge shall commence on the 1st day of the month following the month when either the property owner or the contractor/builder refuse to allow the property under their control to be inspected by the City or to otherwise validate compliance in accordance with this chapter. This surcharge shall continue as long as no documentation satisfactory to the City to ascertain compliance with this chapter has been provided to the Building Official. This surcharge is intended to offset the added costs associated with having to treat and collect clear water unnecessarily when the status of a property's connection to the sanitary sewer system cannot be ascertained.

CHAPTER 101 SUMP PUMP, ROOF DRAINS, AND GROUNDWATER STANDARDS

2. A surcharge of one hundred dollars (\$100.00) per month is hereby imposed on every sewer bill to property owners for the following conditions:

- A. Not in compliance with this chapter.
- B. Refusal of property inspection.

101.07 NUISANCE. The City may require a property to connect its sump pump discharge line to a City storm sewer or drainage tile, if available, and if, in the determination of the City, it is necessary because the discharge from the sump pump is creating a nuisance or hazardous situation.

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

101.09 HEARING. Any person aggrieved by any provision of this chapter must request a hearing before the City Council within thirty (30) days following an inspection or the imposition of the surcharge. The finding of the City Council shall be final. Any person aggrieved by the actions of the City Council under the provisions of this chapter may seek relief through the Courts, as provided by law.

(Ch. 101 – Ord. 2014-11 – Nov. 14 Supp.)

[The next page is 485]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Open Dumping Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning Restricted	105.11 Sanitary Disposal Project Designated
105.06 Littering Prohibited	105.12 Penalties

105.01 PURPOSE. The purpose of chapters 105 and 106 in this Code of Ordinances is to provide for the sanitary storage, collection and disposal of solid waste and recyclables, and thereby to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Agency” means the Shelby County Area Solid Waste Agency.
2. “Commercial and institutional recycling” means the diversion of recyclable materials from the waste stream of businesses and industries in the City to the transfer station operated by the Agency.
3. “Director” means the director of the State Department of Natural Resources or any designee.
(*Code of Iowa, Sec. 455B.101[2b]*)
4. “Discard” means to place, cause to be placed, throw, deposit or drop.
(*Code of Iowa, Sec. 455B.361[2]*)
5. “Family housing unit” means a residence with one water meter per family.
6. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(*IAC, 567-100.2*)
7. “Hauler” means a collector of solid waste and/or recyclable materials for compensation and who meets all of the requirements for

licensing by the City and holds such license. However, “hauler” does not include those persons or enterprises strictly engaged only in the removal, collection and/or transportation of beverage containers which are subject to the appropriately marked for participation in Iowa’s Beverage Containers Control Act, Chapter 455C of the Code of Iowa.

8. “Hazardous waste” means any chemical or compound or mixture thereof, substance or article which, if improperly used, handled, transported, processed or stored, may constitute a danger to health or may cause damage to property by reason of being explosive, flammable, poisonous, unstable, irritating or otherwise harmful. “Hazardous waste” includes medical waste and infectious waste from health care facilities.

9. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

10. “Open burning” means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

(IAC, 567-100.2)

11. “Open dumping” means then depositing of solid waste on the surface of the ground or into a body or stream of water.

(IAC, 567-100.2)

12. “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.

13. “Recyclable hauler” means a hauler of recyclable materials only.

14. “Recyclable materials” means: newsprint; corrugated cardboard; high-grade paper; clear, green and brown or amber glass (food and beverage containers); aluminum, steel, bi-metal and tin cans (food and beverage containers); high-density polyethylene (HDPE) and polyethylene terephthalate (PET) plastic containers; textiles and other materials designated by the Agency to be a part of an authorized recycling program and which are intended for transportation, processing and re-manufacturing or reuse.

15. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

16. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

17. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

18. “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)

19. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

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

20. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the Code of Iowa. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the Code of Iowa, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

(Ord. 2014-13 – Nov. 14 Supp.)

21. “Special waste” means any materials that are not classified as solid waste or recyclable materials due to their size (e.g., furniture) or because such items are banned by State or Federal law from final disposal in a sanitary landfill facility. Special waste includes, but is not limited to appliances, furniture, waste oil, waste tires, ashes and other items determined by the Council.

22. “Toxic waste” means waste materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

23. “Yard waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *Fire Code*.

1. Open Burning Exceptions:

A. Yard Waste. The disposal by open burning of yard waste originating on the premises. However, it is unlawful to burn from

sunset to sunrise. Compliance with Section 307 of the International Fire Code is required. No burning permitted within 25 feet of any structure also per the International Fire Code. This exception does not apply when a burn ban has been issued by the State Fire Marshal's Office.

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

C. 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 receives notice in writing at least two weeks (10 business days) before such action commences.

(Ord. 2008-12 – Sep. 08 Supp.)

105.06 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.07 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, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of

in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.09 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 Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers shall be of not less than twenty (20) gallons or more than thirty-two (32) gallons in nominal capacity, and shall be leakproof, waterproof and fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents thereof. They shall have handles, bails or other suitable lifting devices or features and be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying. They shall be of light weight and sturdy construction with the total weight of any individual container and contents not exceeding fifty (50) pounds. Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used. Disposable containers or other containers as approved by the City may also be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

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

3. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Haulers. Interfere in any manner with solid waste collection equipment or with solid waste haulers in the lawful performance of their duties as such, whether such equipment or haulers be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

105.12 PENALTIES. Violations of this chapter shall be considered simple misdemeanors punishable by a fine of not less than \$50 nor more than \$500.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service	106.10 Curbside Recycling Program
106.02 Collection Vehicles	106.11 Unlawful Activities and/or Nuisances
106.03 Loading	106.12 Other Means For Disposal of Recyclable Materials
106.04 Frequency of Collection	106.13 Commercial and Institutional Recycling
106.05 Location of Containers	106.14 Hauler's License
106.06 Separation of Yard Waste Required	106.15 Landfill Fees
106.07 Bulky Rubbish	106.16 Lien for Nonpayment
106.08 Right of Entry	106.17 Lien Notice
106.09 Special Collection Service	

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by haulers licensed by the City.

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

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the hauler and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 LOCATION OF CONTAINERS. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

106.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and may be composted or burned on the premises.

106.07 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the hauler upon request.

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

106.09 SPECIAL COLLECTION SERVICE. Those residents requiring collection of special waste or residents who are not physically disabled but who wish collection of solid waste on a more frequent schedule or on a basis other than curbside collection may contract with a hauler for specialized service.

106.10 CURBSIDE RECYCLING PROGRAM. There has been established in the City a curbside recycling program for the collection of commingled HDPE and PET plastics; clear, green and brown/amber food and beverage container glass; and tin and aluminum cans; and for the separate collection of paper and corrugated cardboard from all residents of the City. The following apply to the recycling program:

1. Collections of recyclable materials from the curbside shall be made every week on the same day as the collection of solid waste.
2. All residential units shall use the recycling containers furnished by the Agency.

106.11 UNLAWFUL ACTIVITIES AND/OR NUISANCES. It is unlawful for:

1. Any person other than a hauler, as defined in Chapter 105, to collect any solid waste or recyclable material that has been placed at the curbside for collection or within a recycling drop box for collection;
2. Any solid waste or recyclable material that is placed at the curbside for collection or within a recycling drop box to be delivered to any place other than the Agency transfer station or sanitary landfill;
3. Any person to place or cause to be placed any material other than a designated recyclable material within a recycling collection container or recycling drop box; and

4. Any person to misappropriate the recycling containers furnished by the Agency. The affected resident shall be responsible for replacing any missing containers through purchase from the Agency.

106.12 OTHER MEANS FOR DISPOSAL OF RECYCLABLE MATERIALS. Any person may donate recyclable materials to individuals or organizations unless or until such materials are placed at curbside, in recycling drop boxes, or delivered to the transfer station or similar location for collection by the Agency, the City or any agents thereof.

106.13 COMMERCIAL AND INSTITUTIONAL RECYCLING. Any persons within the City who are engaged in business or in providing a service to the residents of the City and who are not served by the curbside program shall arrange for the collection of recyclable material from their establishments. Should such recyclable materials be delivered to any place other than the Agency transfer station or the contracted materials recycling facility serving the County, the business or institution must provide to the Agency a quarterly basis documentation of the type and amount of recyclable material diverted.

106.14 HAULER'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste or recyclable materials, other than waste produced by that person within the City, without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste hauler's license shall be made to the Clerk and provide the following:
 - A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.
 - B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. Insurance. No hauler's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such

business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury: – \$100,000 per person.
 – \$300,000 per occurrence.

Property Damage: – \$ 50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Fee. A license fee in the amount of twenty-five dollars (\$25.00) shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

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 or recyclable materials without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license – either a general hauler’s license or a recyclable hauler’s license – shall be issued to be effective from January 1 to December 31. All licenses must be renewed by December 31.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. Revocation of License. Failure to comply with requirements of this section shall cause a license to be revoked.

7. License Not Transferable. No license authorized by this chapter may be transferred to another person.

8. Recyclable Materials. Haulers must participate in the Agency’s recycling program and meet the Agency’s requirements, except that holders of recyclable hauler’s licenses shall be permitted to collect and transport recyclable materials to locations of their choice so long as they comply with Section 106.13 of this chapter and all other applicable requirements of this chapter and Chapter 105 of this Code of Ordinances.

9. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon

premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

10. Grading or Excavation Excepted. No license or permit is 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 spills upon any public right-of-way.

11. Lawn Care Proprietors Excepted. No license or permit is required for the removal, hauling or disposal of yard waste generated by lawn care business operators, tree removal services and the like; however, all such yard waste shall be conveyed in tight vehicles, trucks, trailers or receptacles constructed and maintained so that none of the material being transported spills upon the public right-of-way.

12. Dead Animal Haulers Excepted. Because they are strictly regulated by the State Department of Agriculture in the handling, transportation and disposal of dead animals, no license or permit is required pursuant to this chapter for the removal, hauling and disposal of dead animals from the City by persons or enterprises duly licensed by the State Department of Agriculture for those purposes. Upon request by City officials, haulers of dead animals shall produce for inspection and verification purposes their State-issued license or permit.

13. Hazardous Waste Haulers. No person or enterprise shall haul hazardous waste, medical waste or infectious waste from the City without first registering with the Clerk. The purpose of registration is to allow the Clerk to review said hauler's EPA, DNR, DOT or other governmentally issued permit or license authorizing said hauler to transport hazardous waste.

106.15 LANDFILL FEES. The disposal of solid waste as provided by this chapter is declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

1. Landfill Fees. The monthly landfill fee for each property in the City is as follows:
 - A. Schools – \$4.80 per facility.
 - B. Elm Crest Retirement Community – \$1.10 per resident room.

C. Myrtue Memorial Hospital – \$1.10 per patient room, with the total number of rooms used in the computation of this charge reduced by fifty percent (50%).

D. All other commercial and residential – \$4.00

2. Payment of Bills. The landfill fee is due and payable with and under the same terms and conditions as payment for utility services as established by the Utility Board of Trustees. To the extent that the fees are billed as part of a combined service account, utility services may be discontinued if the account becomes delinquent.

3. Late Payment Penalty. Fees not paid when due shall be deemed delinquent and a delinquency charge of one and one-half percent (1.5%) of the amount due shall be added thereto.

106.16 LIEN FOR NONPAYMENT. Except as provided for in Section 99.14 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

(Ord. 2012-09 – Oct. 12 Supp.)

106.17 LIEN NOTICE. A lien for delinquent landfill fees shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

[The next page is 525]

CHAPTER 110

CABLE TELEVISION FRANCHISE AND REGULATIONS

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110.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have, for the purpose of this chapter, the following meanings:

1. “Affiliate” means an entity which owns or controls, is owned or controlled by, or is under common ownership with the Grantee.
2. “Basic service” means any cable system service tier which includes the retransmission of local television broadcast signals.
3. “Cable Act” means the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. Section 543(b).
4. “Cable Committee” means the City of Harlan Cable Television Committee (See Section 110.45).
5. “Cable service” means (i) the one-way transmission to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection of such video programming or any other programming service.
6. “Cable system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which

includes video programming and which is provided to multiple subscribers within a community, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a cable system – other than for purposes of Section 621(c) – to the extent such facility is used in the transmission of video programming directly to subscribers; or (iv) any facilities of any electric utility used solely for operating its electric utility systems.

7. “Channel” means a 6 MHz band for transmission of visual and audio signals for television.

8. “Converter” means a device capable of providing more than the number of channels on a standard television receiver.

9. “FCC” means Federal Communications Commission.

10. “Franchise” means the agreement between the City and Grantee containing the terms and conditions for constructing and operating a cable communication system within the City of Harlan, Iowa.

11. “Grantee” means Heritage Cablevision, Inc., d/b/a TCI of the Heartlands.

12. “Gross revenues” means the monthly cable service revenues received by Grantee from subscribers of the cable system, including, but not limited to, revenues from subscriber rates, net pay services, leased channels, movie channels, pay-per-view programming, pay television installations, connection charges, and local advertising revenues; provided, however, such phrase does not include revenues received from any national advertising carried on the cable system, nor shall such phrase include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are controlled by the Grantee on behalf of such governmental unit or agency.

13. “Net revenues from sale of pay television” means gross revenues derived from the sale of pay television less the cost to the Grantee of acquiring the signal.

14. “Outlet” means the point of connection of the cable or wire to a television or radio receiver.

15. "Pay television" means cable programming services which are billed at a separate rate on a per view, per channel, per tier, or any other subscription basis.
16. "PEG channels" means channels dedicated to public service, educational or governmental purposes.
17. "Public way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, drive, circle, or other public right-of-way, including, but not limited to, public utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the cable system.
18. "Service area" means the present municipal boundaries of the franchise authority, and shall include any additions thereto by annexation or other legal means.
19. "Subscriber" means a person who purchases cable television services within the service area.

110.02 GRANT. The City hereby grants to Grantee a nonexclusive franchise to construct and operate a cable system in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the City and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system pursuant to this chapter.

110.03 TERM. The franchise granted pursuant to this chapter shall be for an initial term of fifteen (15) years from the effective date of the franchise.[†]

110.04 FRANCHISE FEE.

1. During the term of a franchise, Grantee shall pay to the City a sum of money equal to five percent (5%) of the annual local gross revenues accruing from services rendered within the City. Sales tax or

[†] **EDITOR'S NOTE:** Ordinance No. 1994-07, granting a cable television franchise for the City, was passed and adopted by the Council on May 17, 1994.

other taxes levied directly on a per-subscriber basis and collected by Grantee shall not be included in computation of sums due the City. Said fees shall be paid semiannually, and shall be due and payable 90 days after the close of each semiannual period. Not later than the date of each payment, Grantee shall file with the Council a written statement certified by an officer of the Grantee, which identifies in detail the sources and amounts of gross revenues received by Grantee during the semiannual period for which payment is made.

2. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

3. Any franchise fees which remain unpaid after the dates specified above shall be delinquent and shall thereafter accrue interest at the rate of twelve percent (12%) per annum until paid.

4. Upon request by the City, Grantee shall submit a statement of revenues for the determination of whether franchise fees are accurately calculated for its Harlan operation.

5. Applicable State statute of limitations shall apply to both City and Grantee.

6. In the event the City shall elect to exercise rate regulatory powers under the terms and provisions of the Cable Act, Grantee shall provide information as may be required by the FCC.

110.05 SYSTEM DESIGN.

1. As a minimum system requirement, the Grantee shall undertake all reasonable steps to install and maintain a cable network designed with an initial capacity equivalent to a minimum of 33 channels. Capacity shall be increased as the then-present technology, including but not limited to fiber-optic technology, renders such upgrade cost effective to the Grantee and not cost prohibitive to subscribers. Compliance with this section may be reviewed by the Cable Committee at any time.

2. At the time of upgrade, the Grantee shall connect the following locations to the cable system so that they will be capable of communicating to the head-end via a closed loop circuit:

- A. Harlan Community Library.
- B. Harlan Community High School.

- C. Harlan Community Middle School.
 - D. City Hall.
 - E. Shelby County Courthouse.
 - F. Harlan Municipal Utilities.
 - G. Myrtue Memorial Hospital.
 - H. Harlan's Civil Defense Disaster Headquarters located at Veterans Memorial Auditorium.
3. Grantee shall, without charge for installation, maintenance or service, make single installations of its basic and expanded basic cable television service facilities with one converter (if necessary) at each of the following locations within the service area:
- A. City Hall,
 - B. Fire Station,
 - C. Police Station,
 - D. Public Library
 - E. All public school buildings of the Harlan Community School District.
 - F. All accredited private schools for elementary and secondary education, including the local Time For Tots facility, but not including other day care centers or nursery schools.
 - G. Senior Citizen's Center.
 - H. Harlan Municipal Utilities.
 - I. Veterans Memorial Auditorium.

110.06 RENEWAL OF FRANCHISE. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee's franchise shall be governed by and comply with the provisions of the Cable Communications Policy Act of 1984, as amended by the Cable Act, all FCC regulations adopted pursuant thereto, and any future changes in State and Federal law.

110.07 TRANSFER OF FRANCHISE. Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with Grantee, without the prior consent of the City, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any

right, title, or interest of Grantee in the franchise or cable system in order to secure indebtedness. Operation by Grantee of its cable system under any name other than its current title, "Heritage Cablevision, Inc., d/b/a TCI of the Heartlands," without prior written notification to the City with a written explanation as to why the intended change is not a breach of this chapter, shall create a rebuttable presumption of a substantial breach of this chapter.

110.08 COVENANT FOR REPAIRS. Grantee and the City acknowledge that this is a renewal of a franchise originally granted in 1979. During that period of time Grantee has acquired all right, title, and interest in the cable equipment currently in place in the public ways of the service area. The City has provided Grantee with a list of specific items at specific addresses which need maintenance or repair to bring them into compliance with the City's cable television regulations. Grantee will make these repairs as soon as possible but shall complete those repairs no later than January 1, 1995, with the exception of items requiring the burying of cable which shall be completed no later than January 1, 1996. The City shall grant reasonable extensions of time to complete the required repairs within the service area if, notwithstanding its due diligence, the Grantee has been unable to complete said repairs because the acts or omissions of a third party have caused delays beyond those reasonably expected. When requesting an extension, Grantee shall propose a reasonable alternative deadline for the completion of said repairs..

110.09 NOTICE. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the City or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U.S. Postal Service.

110.10 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law. The parties acknowledge that this section has no application to the use of the several and varied competitive advantages the City or its City utility may inherently possess by virtue of their unique relationship in their anticipated operation of a cable system within the franchise area. These advantages include, but are not limited

to, the utilization of tax exempt bonding for financing and free use of City poles and right-of-ways.

110.11 PURPOSE AND SCOPE. The purpose of this chapter is to require Grantee to operate pursuant to its franchise and this chapter and to regulate such activity consistent with the Federal Cable Communications Policy Act of 1984 as amended in 1992, the Federal Communications Commission rules and regulations promulgated thereunder as well as any and all other applicable Federal or State statutes and regulations pertaining to cable television services.

110.12 COMPLIANCE WITH APPLICABLE LAW. All cable television activity conducted by Grantee within the City shall be undertaken pursuant to this chapter, and shall be in accord with the provisions of this chapter. Grantee shall at all times comply with the rules and regulations of the FCC as well as with all other applicable Federal and State statutes. State and Federal legislation, as well as all FCC rules and regulations, shall in all cases be controlling if any part of this chapter or any franchise is in conflict therewith.

110.13 REVOCATION OF FRANCHISE.

1. In the event of a material breach of the terms and conditions of this franchise chapter and the subsequent failure of the Grantee to correct its default under or noncompliance with the terms of its franchise, the Council may revoke the franchise and all rights of Grantee thereunder, provided the City gives the Grantee adequate notice and an opportunity to cure. A material breach of this franchise chapter shall include, but not be limited to:

A. Any material violation by Grantee of any provision of this chapter, Chapter 111 of this Code of Ordinances regarding the regulation of rates, and any FCC rules or regulation pertaining to customer service standards; or

B. The Grantee's attempt to evade any material provision of the franchise or to practice any fraud or deceit upon the subscribers, the City or the general public; or

C. The Grantee's failure to begin or complete system construction or system extension or expansion as provided in any franchise; or

D. The Grantee's material misrepresentation of a fact in the application for or negotiation of the franchise or in any other appearance before or document submitted to the Council, the Cable Committee, or to subscribers.

2. The Council shall not revoke Grantee's franchise if the interruption in service is without fault of the Grantee or occurs as a result of circumstances beyond its control.
3. Upon a material breach, the Cable Television Committee shall make written demand that the Grantee immediately comply with any such provision, rule, order, or determination under or pursuant to this franchise chapter. If the violation by the Grantee continues for a period of 60 days following such written demand without the submission of written response that the corrective action has been taken or is being actively and expeditiously pursued, the Cable Committee may recommend revocation of the franchise ordinance to the Council. If recommended, the Cable Television Committee shall cause to be served upon Grantee, at least twenty (20) days prior to the date of such Council hearing, a written notice of intent to request such revocation and the time and place of the hearing. Public notice shall be given not less than four (4) days or more than twenty (20) days prior to the hearing and shall include a description of the issues which the Council is to consider.
4. The Council shall hear and consider the issue and shall hear any person interested therein, and may determine in its discretion, whether or not any violation by the Grantee of the franchise ordinance has occurred.
5. If the Council determines that a violation of the franchise ordinance has occurred, the Council, may, by resolution, declare that the franchise ordinance of the Grantee shall be revoked and terminated unless there is compliance within such period as the Council may fix, such period not to be less than thirty (30) days, provided no opportunity for compliance shall be granted for a violation by reason of fraud or misrepresentation.
6. At the expiration of said period, the Council shall determine whether Grantee has achieved compliance. Upon a finding that Grantee has failed to achieve compliance, the Council may revoke the franchise ordinance forthwith or may further extend the period for compliance, at its discretion.

110.14 ALTERNATIVES TO REVOCATION.

1. In the alternative to the foregoing remedies, if the Council determines that the Grantee is in default or violation of any provision of this franchise ordinance, the Council, in its discretion, may:
 - A. Foreclose on all or any part of any security including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and such amount as

the Council reasonably determines is necessary to remedy the default;

B. Commence an action at law for monetary damages or seek other equitable relief;

C. Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages;

D. In the case of a substantial default of a material provision of this franchise ordinance, and after giving the Grantee ninety (90) days' notice and opportunity to cure, assess a fine of \$100.00 per day until the substantial default is remedied.

2. Any controversy between the Council and the Grantee regarding the rights, duties or liabilities of either party under this section may, upon written agreement by both parties, be submitted to arbitration conducted under the auspices of the American Arbitration Association and in accordance with Chapter 679A of the Iowa Code. Such arbitration shall be before three disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and binding upon the parties and shall be enforced in accordance with the laws of the State of Iowa.

3. Any final action by the City adverse to Grantee's interest which is disputed by Grantee shall be reviewable by court of competent jurisdiction pursuant to State and Federal law.

110.15 BOOKS AND RECORDS. The Grantee agrees that the City or its designated agents or assigns may review such of its books and records during normal business hours, upon ten (10) days' written notice to Grantee and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The City agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

110.16 FILING AND COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications and communications and reports submitted by Grantee to the FCC, Securities and Exchange

Commission, or any other Federal or State regulatory commission or agency having jurisdiction in regard to any matters affecting cable television within the corporate limits of the City shall also be submitted to the City.

110.17 INSURANCE. Grantee shall promptly, after the granting of Grantee's franchise, provide public liability insurance for personal injuries and/or death growing out of any one accident or other cause in the following amounts: \$300,000.00 as to any one person; \$500,000.00 as to any one occurrence for injury or death to persons; and \$100,000.00 for damages to property, with, as to Grantee, so-called umbrella coverage of at least \$1,000,000.00; worker's compensation insurance as provided by the laws of the State of Iowa as amended; and automobile insurance with limits of not less than \$300,000.00/\$500,000.00 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000.00 covering all automotive equipment, with, as to Grantee, so-called umbrella coverage of at least \$1,000,000.00. Grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa and holding a rating by Best of at least "A-." In addition, the City shall receive at least 30 days' prior written notice of any cancellation or change in any said insurance policy or policies. Grantee shall furnish the City with a certificate of insurance from Grantee's carrier indicating that there is such insurance coverage as herein provided.

110.18 SIGNAL QUALITY. Grantee will meet or exceed FCC standards as to signal quality and system performance on all cable television channels as measured at any subscriber terminal.

110.19 PERFORMANCE EVALUATION. On the fifth and tenth anniversaries of the effective date of the franchise, the Commission may require review of the franchise, subject to the following:

1. Any such review shall be open to the public and announced in the official City newspaper. The City shall be responsible for notifying its local subscribers of review sessions by announcing same through either public notices or inserts in subscribers' billing statements.
2. Topics to be discussed at any scheduled review session may include, but will not be limited to, franchise fees; free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this chapter; judicial and FCC rulings; line extension policies; and existing or perspective rules or regulations of the Grantee or the City.

3. Members of the general public may add topics by requesting of the City such topics be added to the agenda of its meeting.
4. During a review or evaluation of the City, the Grantee shall fully cooperate with the City and shall provide such non-confidential information and documents as the City may need to reasonably perform the review.

110.20 INSPECTION. The City shall have the right to inspect any construction or installation work performed by Grantee in the City and make such inspections as it finds necessary to insure compliance with the terms of this chapter or other pertinent provisions of law. More particularly, the City may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than two business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances or in the event a number of similar complaints are received by subscribers as set forth in Section 110.38(4) below, the City agrees that such testing shall be undertaken no more than two times a year in the aggregate, and that the results thereof shall be made available to the Grantee upon Grantee's request.

110.21 PROGRAM ALTERATION PROHIBITED. All programs of broadcasting stations carried by Grantee shall be carried in compliance with FCC regulations.

110.22 REMOVAL OF EQUIPMENT UPON EXPIRATION. Upon the expiration or termination of any cable television franchise, Grantee shall remove its poles, cable television transmission and distribution systems, and all other appurtenances from the streets, sidewalks and public ways of the City, when ordered to do so by the City, and shall restore the same to their original condition, unless, upon such expiration or termination the cable system, including all such equipment is transferred to a subsequent Grantee to be utilized pursuant to a franchise granted by the City; however, the Grantee shall in all cases have the right of abandonment of its property. If Grantee refuses to

remove such items or fails to remove such items in a reasonable time after notification by the City, the City shall have the right and authority to remove such poles, cable television transmission and distribution systems, and other appurtenances from the City streets, sidewalks, and public ways.

110.23 HOLD HARMLESS.

1. A Grantee shall at all times defend, indemnify, protect, and hold harmless the City from and against any and all liability, losses, and damage to property or bodily injury or death to any person including payments made under worker's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of Grantee's cable television system, and caused by any act or failure to act on the part of Grantee, its agents, officers or employees, provided however, that Grantee shall not hold the City harmless for any activities or omissions that are the result of gross negligence or deliberate acts or omissions by the City, its officers, employees, or others who represent the City. Grantee shall hold the City harmless against any damages resulting from legal action which may be brought against it in connection with the operation Grantee's cable television system in the City and shall defend at its own expense any action brought against the City by reason of the erection, construction, replacement, removal, maintenance or operation of Grantee's cable television system.

2. This hold harmless and indemnity agreement shall include any claim arising out of the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations, or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or the granting of the franchise by the City.

3. A Grantee shall pay all reasonable expenses necessarily incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses including reasonable attorney's fees.

110.24 RIGHTS RESERVED TO THE CITY. The City may from time to time, add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its lawful police powers provided that such additions or revisions are reasonable and do not place an undue financial burden

on Grantee. Such additions or revisions shall be made only after a public hearing for which Grantee shall have received written notice at least thirty (30) days prior to such hearing.

110.25 CONTINUITY OF SERVICE.

1. All subscribers shall receive continuous service, except for circumstances beyond Grantee's control, so long as their financial and other obligations to the Grantee are satisfied. In the event that Grantee elects to rebuild, modify or sell the system, or the Council gives notice of its intent to terminate the franchise, the Grantee shall take all reasonable steps within its control to act so as to ensure that all subscribers receive continuous, uninterrupted service. In the event of a change of Grantee or in the event a new operator acquires the system, the Grantee shall cooperate with the City and new Grantee or operator in maintaining continuity of service to all subscribers. During such interim period, Grantee shall be entitled to the cable system revenues for any period during which it actually operates the system, in order to cover the reasonable costs for continuing its services.

2. Upon written request of the City, the Grantee shall fully inform the City of any cessation of operations of six or more hours duration, its causes, and the steps being taken to remedy such crises.

3. Impossibility of Performance. The Grantee shall not be held in default or non-compliance with the provisions of the franchise ordinance nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by strikes, natural disasters, power outages, or other events reasonably beyond its ability to control.

110.26 OPERATION AND MAINTENANCE. Grantee shall perform the following with regard to the operation and maintenance of a cable television system:

1. Maintain an office in Red Oak, Iowa, open to the public during all normal business hours with a white page telephone listing under both "TCI of the Heartlands" and "Heritage Cablevision" in the local GTE Telephone Directory and the Boyer Valley Regional Telephone Directory. The "Heritage Cablevision" listing may be dropped at some time in the future with approval of the Council when it becomes appropriate to timely phase out. The office shall be equipped with adequate 1-800 telephone line capability and staff to enable requests for repairs to be received on a 24-hour basis. Staffing of the office shall include a manager with the authority to make timely resolutions of operating emergencies and subscriber complaints. Grantee shall maintain a payment center in the City.

2. Grantee shall maintain a resident service person in the City unless FCC regulations render this requirement unreasonable. Grantee shall maintain a repair and maintenance crew which responds to subscriber complaints or requests for service with appropriate repairs or service within 24 hours of receipt of the complaint, except in service outages beyond Grantee's control; i.e., natural disasters. Upon failing to correct total loss of customer service within 24 hours, an amount equal to one-thirtieth (1/30) of the subscriber's monthly charges shall be credited to the subscriber's account for each 24-hour period following the receipt of the subscriber complaint during which no service is provided.
3. Construct and maintain all parts of the cable system to meet or exceed FCC standards throughout the entire franchise period.
4. Provide service calls to subscribers pursuant to and in compliance with FCC regulations.
5. Disconnect cable service without charge after request of a subscriber for termination of service.
6. Render efficient service, make repairs promptly and properly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by reasonable notice and shall occur during period of minimum system use.
7. Distribute cable service to subscribers in compliance with all consumer standards regulations mandated by the Federal Communications Commission.
8. Take all reasonable steps to assure that its operations do not interfere with television reception of persons who are not subscribers, and that its system does not interfere with, obstruct, or hinder, in any manner, the operation of the various other utilities and/or electronic or radar surveillance systems serving the residents of the City.

110.27 LINE EXTENSIONS. Grantee shall extend its trunk lines or otherwise make available upon request its cable television system to all existing residences located within the City limits as they existed on July 1, 1993, and shall further service all newly annexed areas as rapidly as possible, unless the Grantee obtains a waiver of this section as hereafter provided. Grantee may, under the following procedures, defer service for those residences where, due to unique circumstances such as sparse population or unusually difficult construction conditions, this requirement would constitute a hardship to Grantee. Whenever an extension of service otherwise required by this section would be economically noncompensatory, Grantee may seek a waiver of this requirement pursuant to the following procedures:

1. File with the cable committee and publish once each week for two weeks in a newspaper of general circulation in the City a map of the City on which there shall be clearly and precisely shown those residences to which the Grantee intends to defer service together with a notice stating:
 - A. That the extensions of service to such areas or residences would be economically noncompensatory to the Grantee and that a written copy of the projected costs and revenues from an extension of service to such areas or residences is on file with the Clerk and at the Harlan Community Library for examination and copying by any interested person.
 - B. That any interested person opposed to a waiver of the requirements of this section for all or any part of the area or residences covered by the notice may file a written protest in the office of the Clerk on or before a date specified which shall not be less than ten days after the date of last publication.
2. A copy of such notice shall be mailed by ordinary mail to each residence within the affected area for which a waiver is sought to the extent the identity of such residents is reasonably available to Grantee or to "occupants" if such identity is not reasonably available. A failure of a resident to receive a copy of the notice by mail shall not be a basis for a denial of a waiver or withdrawal of a waiver granted pursuant to this section.
3. If no written objection is filed by 4:00 p.m. on the date specified in the notice, the waiver shall be granted by the Cable Committee.
4. When a protest is filed for any residence or business for which a deferral is sought, the Cable Committee shall, after notice and for public hearing, approve or deny the deferral of service. At the hearing, an affected property owner, resident, or other interested party may provide evidence or argument that the Grantee's projected costs of service are unreasonably high or that projected revenues are unreasonably low.
5. After hearing the evidence and arguments, the Cable Committee may grant the requested waiver if it finds the Grantee will realize a rate of return of less than twelve percent (12%) per annum from an extension of such service as determined by dividing projected gross receipts from customer services for which the waiver is sought by the costs of construction of such extensions or if it finds due to other unique or

unusual circumstances the requirements of this section would constitute a hardship to the Grantee.

6. Any final action by the Cable Committee shall be reviewable by a court of competent jurisdiction pursuant to State and Federal law.

110.28 SAFETY REQUIREMENTS. Grantee shall at all times employ reasonable care in the installation and maintenance of a cable television system. Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of all applicable local, State and Federal codes. All structures, lines, equipment, or connections in, over, under, or upon the streets, sidewalks, alleys and public ways or places of the City shall at all times be kept and maintained in a safe condition and in good working order and repair and shall not in any way interfere with any installation of the City or of any public utility serving the City. This duty shall include but not be limited to the following: All junction boxes, cable splices, or similar devices shall be affixed to a pole or other stationary device and shall not be suspended in mid-air; all wires affixed to the side of poles or other fixtures in the City's right-of-way shall be covered; all pedestals or similar boxes located above ground on either private property or in the City's right-of-way shall be maintained in good condition and replaced or repaired when damaged. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

110.29 CONDITIONS OF RIGHT-OF-WAY OCCUPANCY. Grantee shall be allowed to use the City streets, alleys, right-of-ways and other public ways and places, including any and all public easements held by the City for utility purposes, for the construction and operation of its cable television system pursuant to the granting of a franchise; provided, however, in such use and occupancy Grantee shall be subject to all applicable City ordinances and all transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, right-of-ways, or other public ways.

110.30 RESTORATION OF PUBLIC WAYS AND PRIVATE PROPERTY. If during the course of Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way or private property by Grantee, it shall, at its expense, replace and restore such public way or private property to a condition reasonably comparable to the condition of a public way or private property existing immediately prior to such disturbance.

110.31 PLACEMENT AND USE OF POLES.

1. Poles or other wire-holding structures already serving the City are available for use by Grantee subject to subsection 3 below. The City may require Grantee to use such poles and structures, if the City determines that the public health, welfare or safety would be enhanced thereby and if the terms of the use available to Grantee are just and reasonable.
2. Grantee shall not erect, maintain, or use any poles or aerial wires or cables within any underground districts established by the City or which may hereafter be established by the City. Furthermore, no poles or aerial wires or cables shall be installed or maintained above ground in any area where other utilities are required by law to be underground or where other utilities are already installed underground. Notwithstanding, Grantee shall be allowed to establish and maintain above-ground junction boxes, pedestals, or service drops as required.
3. The City and Grantee acknowledge that pursuant to local ordinances, all poles and other wire holding structures already in use in the City's right-of-ways are generally subject to the control of, and specifically, are subject to an existing pole use agreement with the Board of the Harlan Municipal Utilities. Grantee covenants to continue to abide by said pole agreement and negotiate any future extensions or renewals with the Board of the Harlan Municipal Utilities.

110.32 RELOCATION AT REQUEST OF CITY. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the Grantee when required by City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, electric facilities, drains, gas or water pipes, communication lines, or any other type of structures or improvements by the City; but the Grantee shall in all cases have the right of abandonment of its property. This shall include, but not be limited to, the transfer or relocation of any aerial wires or cables of Grantee to underground when the City, through its municipally owned utility, removes or transfers aerial wires or cables underground within any easement or public way.

110.33 RELOCATION AT REQUEST OF THIRD PARTY. Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of such building, provided: (i) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such

payment in advance; and (ii) the Grantee is given not less than ten (10) business days' advance written notice to arrange for such temporary wire changes.

110.34 TRIMMING OF TREES AND SHRUBBERY. Grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system located within a public way so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment at its own expense. The Grantee shall reasonably compensate the City or property owner for any damages caused by such trimming, or shall as mutually agreed upon and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the City or property owner pursuant to the terms of this section.

110.35 MAPS, PLATS AND REPORTS. Grantee shall submit to the City Administrator, upon request of the City, strand maps and plats showing the trunk and distribution system of all existing cable television installations in the City. Grantee shall make periodic reports, at the request of the City, concerning cable television operations, including but not limited to semiannual proof of performance tests. Grantee shall submit with such reports any and all complete presentation of its cable communication operations within the City.

110.36 SERVICE STANDARDS. Through the term of this franchise chapter, Grantee shall continue to maintain the technical, operational, maintenance and service standards set forth in its franchise agreement with the City, this chapter, all State and Federal statutes, and all pertinent FCC regulations.

110.37 SERVICE RULES AND REGULATIONS OF GRANTEE. Grantee shall have the right to prescribe reasonable service rules and regulations not inconsistent with this chapter, and not inconsistent with the laws of the State of Iowa and the United States of America. Upon request by the City, such rules shall be filed with the City. Grantee shall also submit to the City, at the City's request, the form of its service agreements between the Grantee and its subscribers and shall furnish any amendments or alterations to the service agreement.

110.38 SUBSCRIBER SERVICE COMPLAINTS.

1. The City of Harlan Cable Television Committee shall be responsible for the City's continuing administration of any franchise, including Grantee's complaint procedures as set forth below.
2. Grantee shall establish standard procedures for receiving, acting upon, and resolving subscriber complaints which procedures shall be in

writing and filed with the Clerk's office. Such procedures shall be subject to review by the Cable Committee.

3. Grantee shall keep at its general offices a computer print-out of service complaints. An exact copy of the computer print-out of complaints and resolutions thereof shall be mailed to the Cable Committee upon its written request. All service complaint records shall be retained on file by Grantee for a period consisting of the most recent three (3) years.

4. When there are a number of similar complaints made or when there appear, in the judgment of the Cable Committee, to be circumstances indicative of unreliable and/or poor quality cable service being delivered to subscribers, the Committee shall notify the Grantee in writing and establish a meeting in order to give the Grantee an opportunity for comment. The Committee and the Grantee shall negotiate in good faith in an effort to resolve the problem.

5. The Committee may, should the circumstances appear to merit such attention, require by written request that tests and analyses be supervised and/or conducted by an independent professional engineer pursuant to Section 110.20 of this chapter. The engineer responsible for the testing shall sign all records of the special tests and shall prepare a report interpreting the results of the tests and recommending corrective actions to be taken by the Grantee. The Grantee shall forward to the Cable Committee such records without revisions, deletions, or substitutions.

110.39 REMOVAL OF EXISTING ANTENNA. Grantee shall in no way tamper with or remove an existing television antenna without the owner's consent.

110.40 SUBSCRIBER SERVICE RATES. The City's authority to regulate rates of basic cable service and related cable equipment is derived from Section 623 of the Cable Communications Policy Act of 1984, as amended by the Cable Act, and regulations of the Federal Communications Commission adopted pursuant to that section. The right of the City to regulate the basic cable rates of Grantee shall be governed by such statutes and regulations and any amendments or laws repealing and/or replacing such statutes and regulations, as finally legally determined.

110.41 BILLING PRACTICES. Grantee shall not utilize any form of "proactive" billing whereby an extra charge for optional programming or service is added to a subscriber's monthly bill without the subscriber's prior express permission or a prior specific request for such extra cost service.

110.42 RATE DISCRIMINATION PROHIBITED. Grantee shall not, as to rates, charges, services, service facilities, rules and regulations, or in any other respect, make or grant any undue preference or advantage to any person or subject any person to prejudice, disadvantage, or unfair competition. Subscriber rates shall be uniform throughout the entire service area at all times.

110.43 SUBSCRIBER PRIVACY RIGHTS. No signals shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such authorization shall be required for each type of classification of two-way cable communications activity planned; except that the Grantee shall be entitled to conduct system-wide or individually addressed “sweeps” for the purpose of verifying system integrity, controlling return-path transmission, or billing for pay services. Grantee, its agents or employees, shall not, without the specific written authorization of each subscriber involved, sell, or otherwise make available to any party, except as necessary to conduct Grantee’s cable business in the service area:

1. Lists including the name and address of such subscriber; or
2. Any list which identifies the individual viewing habits of such subscriber.

110.44 PEG CHANNELS.

1. PEG (Education and government access) Channels. The Grantee shall provide a minimum of one dedicated channel for educational and governmental use. This requirement is subject to Section 611(d)(1) of the Cable Act which allows Grantee to use any of the required PEG channels for its programming if not used by the grantor for public, educational, or governmental use. The Grantee shall provide additional PEG channels set forth in Subsection 2 below. There shall be no charge made to users of the PEG channels by the Grantee. Furthermore, Grantee shall also supply installation of the wiring and equipment necessary to access all PEG channels from either City Hall or the offices of the Harlan newspapers as selected by the City. Programming on any PEG channels shall be controlled by the City. Any revenue generated from any PEG channel use shall be the property of the City.

2. Additional Channels. Whenever the PEG channel as required by this section is in use during eighty percent (80%) of the weekdays (Monday through Friday) for eighty percent (80%) of the time during

any consecutive three-hour period, with at least fifty percent (50%) of the programming being original and not duplicated for six consecutive weeks, the Grantee shall make an additional channel available for the same purpose.

110.45 CABLE TELEVISION STANDING COMMITTEE.

1. Establishment. There is hereby created and established as a standing committee within the ranks of the Council the Harlan Cable Television Committee.

2. Composition; Term. The committee shall consist of three (3) members of the Council appointed by the Mayor for staggered terms of four (4) years. All members of the committee shall be Council members and subscribers of cable services. If a minimum of three Council members do not subscribe to cable services, that requirement for Cable Committee membership shall be suspended.

3. Powers and Duties. The powers and duties of this committee are as follows:

A. To exercise all powers and duties provided elsewhere in this chapter.

B. To establish and promulgate such rules for the implementation of the provisions of this chapter and as necessary to carry out its functions as it shall deem necessary or useful, provided such rules shall not exceed the scope of the provisions of this chapter and shall not be in conflict with any provision of this chapter.

C. To receive and investigate such complaints, disputes or disagreements as may be directed or referred to the City between subscribers or potential subscribers and Grantees of cable television franchises.

D. To resolve disputes or disagreement between subscribers or potential subscribers and Grantee of a cable television franchise should such parties be unable to first resolve their dispute. The committee shall conduct a public hearing upon any petition by any person seeking resolution of a dispute concerning the operation of any franchise granted hereunder. Grantee shall be provided with a copy of each petition promptly on receipt by the City and shall be given not less than ten days' notice of a hearing on such petition. The hearing shall be conducted as informally as possible and pursuant to rules adopted by the committee. Following a hearing the committee shall issue its

finding or determination which shall be final. Any person aggrieved may seek relief therefrom in the District Court of Iowa as provided by law.

E. To review and audit all reports, records, communications or other documents submitted to the City by a cable television Grantee as required by this chapter.

F. To make recommendations to the Council, from time to time as the committee shall deem appropriate, for any amendments to this chapter deemed by the committee to be advisable.

G. To make reports to the Council, from time to time, but not less than every three (3) years, on the status, progress and development of cable television service and programming in the City.

H. To confer with Grantees and advise on the interconnection of their cable systems with other cable systems or communications systems.

I. To conduct evaluations of the system at least every three (3) years with Grantees and make recommendations to the Council concerning system improvements and amendments to this chapter.

J. To administer sanctions as authorized by this chapter for failure to comply with the terms of this chapter as permitted by FCC rules and regulations and to make such recommendations for action by the Council as otherwise required by this chapter.

110.46 ADMINISTRATIVE FEES. Grantee shall, on an annual basis and upon written request, submit to the City a complete list of all administrative fees charged to subscribers including but not limited to installations, late payments, service calls, etc.

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CHAPTER 111

REGULATION OF CABLE TV RATES

111.01 Definitions

111.02 Initial Review of Basic Cable Rates

111.03 Review of Request for Increase in Basic Rates

111.04 Cable Operator Information

111.05 Automatic Rate Adjustments

111.06 Enforcement

111.07 Severability

111.08 FCC Regulations Incorporated

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

1. “Basic cable rates” means the monthly charges for a subscription to the basic service tier and the associated equipment.
2. “Basic service tier” means a separately available service tier to which subscription is required for access to any other tier of service, including as a minimum, but not limited to, all must-carry signals, all PEG channels and all domestic television signals other than superstations.
3. “Benchmark” means a per-channel rate of charge for cable service and associated equipment which the FCC has determined is reasonable.
4. “Cable Act” means the Cable Television Consumer Protection and Competition Act of 1992.
5. “Cable operator” means any person or group of persons:
 - A. Who provide cable service over a cable system and directly or through one or more affiliates own a significant interest in such a cable system; or
 - B. Who otherwise control or are responsible for, through any arrangement, the management and operation of such a cable system.
6. “Channel” means a unit of cable service identified and selected by a channel number or similar designation.
7. “Cost of service showing” means a filing in which the cable operator attempts to show that the benchmark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.
8. “FCC” means the Federal Communications Commission.
9. “FCC regulations” means the rules and regulations adopted by the FCC for the implementation of the Cable Act.

10. “Initial basic cable rates” means the rates that the cable operator is charging for the basic service tier, including charges for associated equipment, at the time the City notifies the cable operator of the City’s qualification and intent to regulate basic cable rates.
11. “Must-carry signal” means the signal of any local broadcast station (except superstations) which is required to be carried on the basic service tier.
12. “PEG channel” means the channel capacity designated for public, educational or governmental use, and facilities and equipment for the use of that channel capacity.
13. “Price cap” means the ceiling set by the FCC on future increases in basic cable rates regulated by the City, based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.
14. “Reasonable rate standard” means a per channel rate that is at or below the benchmark or price cap level.
15. “Superstation” means any non-local broadcast signal secondarily transmitted by satellite.

111.02 INITIAL REVIEW OF BASIC CABLE RATES.

1. Notice. Upon the adoption of the ordinance codified by this chapter and the certification of the City by the FCC, the City shall immediately notify all cable operators in the City, by certified mail, return receipt requested, that the City intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the Cable Act.
2. Cable Operator Response. Within thirty (30) days of receiving notice from the City, a cable operator shall file with the City its current rates for the basic service tier and associated equipment and any supporting material concerning the reasonableness of its rates.
3. Expedited Determination and Public Hearing. If the Council is able to expeditiously determine the cable operator’s rates for the basic service tier and associated equipment are within the FCC’s reasonable rate standard, as determined by the applicable benchmark, the Council shall:
 - A. Hold a public hearing at which interested persons may express their views;

B. Act to approve the rates within 30 days from the date the cable operator filed its basic cable rates with the City.

If the Council takes no action within 30 days from the date the cable operator filed its basic cable rates with the City, the proposed rates will continue in effect.

4. Extended Review Period. If the Council is unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the Council shall, within 30 days from the date the cable operator filed its basic cable rates with the City and by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

A. Ninety (90) days if the Council needs more time to ensure that a rate is within the FCC's reasonable rate standard; or

B. One hundred fifty (150) days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable benchmark.

If the Council has not made a decision within the 90- or 150-day period, the Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate and on whose behalf the amounts are paid.

5. Public Hearing. During the extended review period and before taking action on the proposed rate, the Council shall hold at least one public hearing at which interested persons may express their views and record objections.

6. Objections. An interested person who wishes to make an objection to the proposed initial basic rate may request the City Clerk to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

7. Benchmark Analysis. If a cable operator submits its current basic cable rate schedule as being in compliance with the FCC's reasonable rate standard, the Council shall review the rates using the benchmark analysis in accordance with the standard form authorized by the FCC. Based on the Council's findings, the initial basic cable rates shall be established as follows:

- A. If the current basic cable rates are below the benchmark, those rates shall become the initial basic cable rates and the cable operator's rates will be capped at that level.
- B. If the current basic cable rates exceed the benchmark, the rates shall be the greater of the cable operator's per-channel rate on September 30, 1992, reduced by ten percent (10%), or the applicable benchmark, adjusted for inflation and any change in the number of channels occurring between September 30, 1992, and the initial date of regulation.
- C. If the current basic cable rates exceed the benchmark, but the cable operator's per-channel rate was below the benchmark on September 30, 1992, the initial basic cable rate shall be the benchmark, adjusted for inflation.
8. Cost-of-Service Showings. If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing in an attempt to justify an initial basic cable rate above the FCC's reasonable rate standard. The Council will review a cost-of-service submission pursuant to FCC standards for cost-of-service review. The Council may approve initial basic cable rates above the benchmark if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in rates below the benchmark or below the cable operator's September 30, 1992, rates minus ten percent (10%), will prescribe the cable operator's new rates.
9. Decision.
- A. By Formal Resolution. After completion of its review of the cable operator's proposed rates, the Council shall adopt its decision by formal resolution. The decision shall include one of the following:
- (1) If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, the Council shall approve the initial basic cable rates proposed by the cable operator; or
 - (2) If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the Council shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that are justified by a cost-of-service analysis.

B. Rollbacks and Refunds. If the Council determines that the initial basic cable rates submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the Council may order the rates reduced in accordance with Subsection 7 or 8 above, as applicable. In addition, the Council may order the cable operator to pay to subscribers refunds of the excessive portion of the rates with interest (computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments), retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the Council's decision resolution.

C. Statement of Reasons for Decision and Public Notice. If rates proposed by a cable operator are disapproved in whole or in part, or if there were objections made by other parties to the proposed rates, the resolution must state the reasons for the decision and the Council must give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the City.

10. Appeal. The Council's decision concerning rates for the basic service tier or associated equipment may be appealed to the FCC in accordance with applicable Federal regulations.

111.03 REVIEW OF REQUEST FOR INCREASE IN BASIC RATES.

1. Notice. A cable operator in the City who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the City and notify all subscribers at least thirty (30) days before the cable operator desires the increase to take effect. This notice may not be given more often than annually and not until at least one year after the determination of the initial basic cable rates.

2. Expedited Determination and Public Hearing. If the Council is able to expeditiously determine the cable operator's rate increase request for basic cable service is within the FCC's reasonable rate standard, as determined by the applicable price cap, the Council shall:

A. Hold a public-hearing at which interested persons may express their views; and

B. Act to approve the rate increase within 30 days from the date the cable operator filed its request with the City.

If the Council takes no action within 30 days from the date the cable operator filed its request with the City, the proposed rates will go into effect.

3. Extended Review Period.

A. If the Council is unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the Council shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

(1) Ninety (90) days if the Council needs more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and

(2) One hundred fifty (150) days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

B. The proposed rate increase is tolled during the extended review period.

C. If the Council has not made a decision within the 90- or 150-day period, the Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate increase and on whose behalf the amounts are paid.

4. Public Hearing. During the extended review period and before taking action on the requested rate increase, the Council shall hold at least one public hearing at which interested persons may express their views and record objections.

5. Objections. An interested person who wishes to make an objection to the proposed rate increase may request the City Clerk to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

6. Delayed Determination. If the Council is unable to make a final determination concerning a requested rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the Council later issues a decision disapproving any portion of the increase.

7. Price Cap Analysis. If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the Council shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based on the Council's findings, the basic cable rates shall be established as follows:

A. If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.

B. If the proposed basic cable rate increase exceeds the price cap established by the FCC, the Council shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

8. Cost-of-Service Showings. If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the Council will review the submission pursuant to FCC standards for cost-of-service review. The Council may approve a rate increase above the price cap if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

9. Decision. The Council's decision concerning the requested rate increase shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a person requesting the City Clerk to record the objection or may be submitted in writing at anytime before the decision resolution is adopted.

10. Refunds. The Council may order refunds of subscribers, rate payments with interest if:

A. The Council is unable to make a decision within the extended time period as prescribed in Subsection 3 above; and

B. The cable operator implemented the rate increase at the end of the extended review period; and

C. The Council determines that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing, and the Council disapproves any portion of the rate increase.

The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the Council's decision resolution.

11. Appeal. The Council's decision concerning rates for the basic service tier or associated equipment may be appealed to the FCC in accordance with applicable Federal regulations.

111.04 CABLE OPERATOR INFORMATION.

1. The City May Require.
 - A. In those cases when the cable operator has submitted initial rates or proposed an increase that exceeds the reasonable rate standard, the Council may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed to make a rate determination. In these cases, a cable operator may request the information be kept confidential in accordance with this section.
 - B. In cases where initial or proposed rates comply with the reasonable rate standard, the Council may request additional information only in order to document that the cable operator's rates are in accord with the standard.
2. Request for Confidentiality.
 - A. A cable operator submitting information to the Council may request in writing that the information not be made routinely available for public inspection. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies.
 - B. If feasible, the information to which the request applies shall be physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.
 - C. Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts upon which those reasons are based.
 - D. Casual requests which do not comply with the requirements of this subsection shall not be considered.
3. Council Action. Requests which comply with the requirements of subsection 2 will be acted upon by the Council. The Council will grant the request if the cable operator presents by a preponderance of the

evidence, a case for nondisclosure consistent with applicable Federal regulations. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from public inspection. If the request does not present a case for non-disclosure and the Council denies the request, the Council shall take one of the following actions:

- A. If the information has been submitted voluntarily without any direction from the City, the cable operator may request that the City return the information without considering it. Ordinarily, the City will comply with this request. Only in the unusual instance that the public interest so requires, will the information be made available for public inspection.
 - B. If the information was required to be submitted by the Council, the information will be made available for public inspection.
4. Appeal. If the Council denies the request for confidentiality, the cable operator may seek review of that decision from the FCC within five (5) working days of the Council's decision, and the release of the information will be stayed pending review.

111.05 AUTOMATIC RATE ADJUSTMENTS.

1. Annual Inflation Adjustment. In accordance with FCC regulations, the cable operator may adjust its capped base per-channel rate for the basic service tier annually by the final GNP-PI index.
2. Other External Costs.
 - A. The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceeds the GNP-PI. These factors include retransmission consent fees, programming costs, State and local taxes applicable to the provision of cable television service, and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per-channel rate, without regard to its relation to the GNP-PI.
 - B. For all categories of external costs other than retransmission consent and franchise fees, the starting date for measuring changes in external costs for which the basic service per channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 28, 1994, whichever occurs first. The permitted per channel charge

may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

3. Notification and Review. The cable operator shall notify the City at least 30 days in advance of a rate increase based on automatic adjustment items. The City shall review the increase to determine whether the item or items qualify as automatic adjustments. If the City makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.

111.06 ENFORCEMENT.

1. Refunds. The City may order the cable operator to refund to subscribers a portion of previously paid rates under the following circumstances:
 - A. A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or
 - B. The cable operator has failed to comply with a valid rate order issued by the City.
2. Fines. If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$500.00 for each day the cable operator fails to comply.

111.07 SEVERABILITY. It is the express intention of the Harlan City Council that this chapter be consistent, in compliance, and cumulative with the Rules and Regulations promulgated by the FCC pursuant to the Cable Television Consumer Protection and Competition Act, Pub. L. No. 102-385 (1992). If any portion of this chapter is determined to be illegal, invalid, unenforceable, unconstitutional or contrary to the above-mentioned FCC regulations, only that portion which is invalid shall be given no legal effect. The remainder of this chapter shall survive and be valid and enforceable.

111.08 FCC REGULATIONS INCORPORATED. Any issue concerning the regulation of cable television rates in the City which is not specifically addressed by this chapter shall be determined by FCC regulations which, by this reference, are incorporated into this chapter in their entirety as if fully set forth herein.

CHAPTER 112

PUBLIC AND PRIVATELY OWNED UTILITIES

112.01 Purpose	112.06 Relocation and Protection of Privately Owned Utilities for Construction of Public Improvements
112.02 Definitions	112.07 Safety Requirements
112.03 Relocation and Protection of Public Utilities for Construction of Public Improvements	112.08 Conditions of Right-of-way Occupancy
112.04 Resolving Controversies Between City and Municipal Utilities	112.09 Relocation to Underground at Request of Municipal Utilities or the City
112.05 Relocation and Protection of Public Utilities for Construction, Maintenance or Relocation of any Privately Owned Utilities	112.10 Privately Owned Utility in Underground District
	112.11 Building, Planting or Using Property Located in a Utility Easement

112.01 PURPOSE. The purpose of this chapter is to provide for the relocation or protection of electrical, gas and water lines by Harlan Municipal Utilities, sewer lines by the City and any other privately owned utility, as hereinafter defined, whenever such relocation or protection becomes necessary due to any construction, relocation, change in grade or improvement by the Harlan Municipal Utilities, the City or any privately owned utility, or any agents or contractors retained by any such entity to accomplish said construction, relocation or improvement of any building, street, alley, utility, storm sewer, sanitary sewer, wire, cable, conduit, line, telephone line or other fixture or structure of similar nature, etc., and to discourage all persons, corporations and entities of any kind from building any structures or planting any plant of any value within a utility easement.

112.02 DEFINITIONS. Where words and phrases used in this Code of Ordinance are defined by State law, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances:

1. "City of Harlan" means the Harlan City Council, its City Administrator, and all employees and departments under their direct supervision.
2. "Harlan Municipal Utilities" means the Harlan Municipal Utilities Board of Trustees as well as its Chief Executive Officer and all employees and departments under their direct supervision.
3. "Public Improvement" includes the principal structures, works, component parts and accessories of any of the following:
 - A. Sanitary, storm and combined sewers.

- B. Drainage conduits, channels and levees.
 - C. Street grading, paving, graveling, macadamizing, curbing, guttering and surfacing with oil, oil and gravel or chloride.
 - D. Street lighting fixtures, connections and facilities.
 - E. Sewage pumping stations, and disposal and treatment plants.
 - F. Underground gas, water, heating, sewer and electrical connections located in streets for private property.
 - G. Sidewalks and pedestrian underpasses or overpasses.
 - H. Drives and driveway approaches located within the public right-of-way.
 - I. Waterworks, water mains, water wells and extensions.
 - J. Plazas, arcades and malls.
 - K. Parking facilities.
 - L. Removal of diseased or dead trees from any public place, publicly owned right-of-way or private property.
 - M. Traffic-control devices, fixtures, connections and facilities.
4. "Utility" means any electrical wires, conduits or cables, any natural gas pipelines, fixtures or lines, any water mains or pipes, any sanitary sewers, manholes or fixtures, any storm sewer drains or fixtures, any cable television, telephone, telegraph, telemarketing or information network system of any kind, whether owned and operated by the City, Harlan Municipal Utilities or any privately owned utility company of any kind.

112.03 RELOCATION AND PROTECTION OF PUBLIC UTILITIES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS. Upon advance notice, as defined below, of any construction by Harlan Municipal Utilities or the City, which construction may endanger the integrity of any public utility, whether said utility is located above or below ground, the public entity operating, maintaining, or controlling said utility which could be compromised by the intended construction shall, at its own expense, protect, support, or temporarily disconnect or relocate in the public way or easement, any wires, cables, lines, pipes or fixtures of any kind so as to allow the construction of the public improvement to be completed without delay. In accomplishing said relocation or protection of any utility, Harlan Municipal Utilities and the City shall take into consideration all applicable Federal and State utility codes, as well as any and all customarily accepted utility standards. In construing said

Federal and State utility codes and all customarily accepted utility standards, the entity responsible for the relocation or protection of a utility shall liberally construe any discretionary language in favor of the rapid and inexpensive completion of the proposed improvement. Advance notice for the purpose of this section as required above shall mean submission to Harlan Municipal Utilities and/or the City of detailed plans of any prospective public improvements two months prior to final approval of their respective budgets for the fiscal year in which construction of said improvements is expected to take place.

112.04 RESOLVING CONTROVERSIES BETWEEN CITY AND MUNICIPAL UTILITIES. In the event a disagreement should develop between Harlan Municipal Utilities and the City concerning any matter of relocation or protection of any utility, the matter shall be resolved through good faith negotiations and that least cost be a high priority between the Chief Executive Officer of Harlan Municipal Utilities and the City Administrator. Should the controversy remain unresolved after these negotiations, said Chief Executive Officer and City Administrator shall present their respective positions to the Mayor and the Harlan Municipal Utilities Board Chairperson, who will make a decision. Any controversies or disagreements between Harlan Municipal Utilities or the City shall be submitted to arbitration for rapid resolution. Each party shall select an arbitrator of its own choosing. The arbitrators so chosen shall select a third arbitrator. The three arbitrators shall then proceed to arbitrate the differences of the parties as expeditiously as possible.

112.05 RELOCATION AND PROTECTION OF PUBLIC UTILITIES FOR CONSTRUCTION, MAINTENANCE OR RELOCATION OF ANY PRIVATELY OWNED UTILITIES. Upon advance notice, as defined below, of any construction by any privately owned utility company, which construction may endanger the integrity of any public utility, whether said public utility is located above or below ground level, the entity operating, maintaining, or controlling said public utility which could be compromised by the intended construction shall protect, support, temporarily disconnect or relocate in the public way or easement, any wires, cables, conduits, lines, pipes, or fixtures of any kind so as to allow the construction, maintenance or relocation of any private utility improvement to be completed without unnecessary delay. In accomplishing said relocation or protection of any of their respective utilities, Harlan Municipal Utilities and the City shall take into consideration all applicable Federal and State utility costs, as well as any and all customarily accepted utility standards. In construing said Federal and State utility codes and all customarily accepted utility standards, the entity responsible for the relocation or protection of a utility shall liberally construe

any discretionary language in favor of the rapid and inexpensive completion of the proposed improvement. Relocation or protection of any public utility shall be done at the expense of the privately owned utility company requesting the public utility relocation. At the time of giving advance notice as required by this section, the privately owned utility shall submit to Harlan Municipal Utilities and/or the City a detailed set of plans of its proposed construction. As soon as possible thereafter, the public entity which will be responsible for any utility relocation or protection shall submit a cost estimate to the private entity. This estimate shall be paid in full by the privately owned utility before construction on its improvement begins. If actual protection or relocation costs exceed the amount estimated, the publicly owned utility shall pay the balance within thirty (30) days' notice of the cost overrun. If the actual cost is less than the amount estimated and paid, Harlan Municipal Utilities and/or the City shall promptly refund the difference. "Advance notice," for the purpose of this section and as required above, means submission to Harlan Municipal Utilities and the City of detailed plans of any prospective privately owned utility improvement two months prior to the date construction on its project begins.

112.06 RELOCATION AND PROTECTION OF PRIVATELY OWNED UTILITIES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.

Upon reasonable advance notice, not to be less than thirty (30) days, of any intended construction by Harlan Municipal Utilities or the City of any public improvement, which construction may endanger the integrity of any utility, whether said utility is located above or below ground level, the privately owned utility operating, maintaining, or controlling said utility which could be compromised by the intended construction shall, at its own expense, protect, support, and temporarily disconnect or relocate in the public way or easement any wires, cables, conduits, pipes, lines, or fixtures of any kind so as to allow the construction of the public improvement to be completed without delay. In accomplishing said relocation of any utility, any privately owned utility company responsible for said relocation or protection of any utility shall take into consideration all applicable Federal and State utility codes, as well as any and all customarily accepted utility standards. In construing said Federal and State utility codes and all customarily accepted utility standards, the privately owned utility company responsible for the relocation or protection of a utility shall liberally construe any discretionary language in favor of the rapid and inexpensive completion of the proposed improvement.

112.07 SAFETY REQUIREMENTS. Harlan Municipal Utilities, the City and any private enterprise, franchise or entity of any kind, at all times, shall employ reasonable care in the installation and maintenance of any utility they maintain in the City. They shall install and maintain their wires, cables, pipes, conduits, fixtures and other equipment in accordance with the requirements of

all applicable local, State and Federal codes. All structures, lines, equipment or connections in, over, under or upon the streets, sidewalks, alleys and public ways or places of the City shall, at all times, be kept and maintained in a safe condition and in good working order and repair and shall not in any way interfere with any installations of the City or the Harlan Municipal Utilities. The operation and maintenance of any public or privately owned utility shall not unreasonably endanger or interfere with the safety of persons or property.

112.08 CONDITIONS OF RIGHT-OF-WAY OCCUPANCY. Any privately owned utility which has obtained proper authorization shall be allowed to use the City streets, alleys, right-of-ways and other public ways and places, including any and all public easements held by the City for utility proposed, for the construction, maintenance and operation of its utility system; provided, however, in such use and occupancy, said entity shall be subject to all applicable City ordinances and that all transmission and distribution structures, wires and equipment erected shall be so located as to cause minimum interference with the intended use of streets, alleys and other public ways and places and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the public ways. Furthermore, no entity shall erect, maintain or use any poles or aerial wires or cables within any underground districts established by the City or Harlan Municipal Utilities or which may hereafter be established by the City or Harlan Municipal Utilities. Furthermore, no poles or aerial wires or cables shall be installed or maintained above ground in any location where other utilities are required by law to be underground or where other utilities are already installed underground. Furthermore, Harlan Municipal Utilities administers and controls the use of all the electrical utility poles, electrical wires attached to those poles, as well as all underground electrical conduit and wiring. Use of said poles, above-ground wires, underground wires and conduit is under the exclusive control of the Harlan Municipal Utilities. No other privately owned utility or entity of any kind shall have the right to use said poles, wires or conduit without the prior express written permission of the Harlan Municipal Utilities.

112.09 RELOCATION TO UNDERGROUND AT REQUEST OF MUNICIPAL UTILITIES OR THE CITY. Upon receipt of reasonable advance notice, not to be less than 60 days, any entity shall, at its own expense, transfer or relocate any aerial wires, cables or fixtures of any kind located in a City street, alley, right-of-way and other public way, easement and/or place to underground when the City or Harlan Municipal Utilities removes or transfers any of its above-ground utility fixtures to underground within the same easement or public way.

112.10 PRIVATELY OWNED UTILITY IN UNDERGROUND DISTRICT. Any privately owned utility to be located within the City limits which shall utilize any privately owned, maintained or obtained easement of any kind shall be located underground if said privately owned utility or improvement is to be located in an underground district established by Harlan Municipal Utilities or the City. The burden of determining if said private easement is located in an established underground district in the City shall be on the entity constructing or installing the privately owned utility. Harlan Municipal Utilities and the City shall reasonably assist said privately owned utility in making any determination if any portion of the private project is in a designated underground district.

112.11 BUILDING, PLANTING OR USING PROPERTY LOCATED IN A UTILITY EASEMENT. Any person, corporation or entity of any kind who builds any structure or plants any foliage of any kind in any utility easement does so at said person's own risk. Should the City or Harlan Municipal Utilities find it necessary to disturb the ground or otherwise clear structures, bushes, trees or plants located in an existing utility easement or in any way use any utility easement to maintain, replace or relocate any utility structure or device, the City, the Harlan Municipal Utilities or the assigns of either entity shall not be responsible for replacing, repairing, replanting or restoring any structure or plant placed in the easement right-of-way by any property owner.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division. *(Ord. 2012-06 – Oct. 12 Supp.)*

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Permit or allow any person under twenty-one (21) years of age to remain upon a licensed premises if over fifty percent (50%) of the dollar volume of the business establishment is realized from the sale of alcoholic beverages, wine, and beer. This provision does not apply to holders of a Class “C” beer permit only.

(Ord. 2009-05 – May 09 Supp.)

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the Code of Iowa. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

(Ord. 2015-08 – Sep. 15 Supp.)

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is 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.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
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.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of

tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

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.

(Ord. 2014-16 – Nov. 14 Supp.)

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

(Ord. 2014-16 – Nov. 14 Supp.)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:
(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.
(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer’s permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer’s permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer’s permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 2014-16 – Nov. 14 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Ord. 2014-16 – Nov. 14 Supp.)

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond/License Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Police Chief for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of ten dollars (\$10.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. If such application is to cover more than one person, then each person shall submit individual data, but the fee shall only be \$10.00.

122.05 LICENSE FEES. Every licensee shall pay a fee of fifteen dollars (\$15.00) per person, regardless of the duration of the license. There shall be issued an individual license for each member of a group.

122.06 BOND/LICENSE REQUIRED.

1. Transient Merchants. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Police Chief evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.
2. Peddlers. Before a license under this chapter is issued to a peddler who is engaged in selling food items as a mobile food unit, an applicant shall provide to the Police Chief evidence that the applicant possesses a State of Iowa Mobile Food License as required by Section 137F.4 of the Code of Iowa. If no mobile license is provided, the individual must obtain a temporary license through the Shelby County Environmental Health Department before a City license will be issued.

122.07 LICENSE ISSUED. If the Police Chief finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately. All licenses granted under this chapter shall expire at eight o'clock (8:00) p.m. on the last day for which the license is issued.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of ten o'clock (10:00) a.m. and eight o'clock (8:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Police Chief may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Police Chief shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Police Chief shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Police Chief may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Police Chief shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Police Chief finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Police Chief refuses to issue a license, the reasons therefor shall be made a part of the record. 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 Police Chief by a

majority vote of the Council members present and the Police Chief shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. There shall be no rebate on surrender of any license before the expiration of the full period because the fee is being based upon the actual cost of administrative expense.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Harlan Public School District and St. Michael's Catholic Schools conducting projects sponsored by organizations recognized by the schools.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Police Chief the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Police Chief finds that the organization is a bona fide charity or nonprofit organization the Police Chief shall issue, free of charge, a license containing the above information to the applicant. In the event the Police Chief

denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.
4. Agreement to be Responsible for Damages. An agreement on the part of the owner to be responsible for any and all damage that may be done to crossings, culverts, bridges, paving, curbing, sidewalks, cable television, electric light, telephone poles or wires, or any other property of the City or of any other person by the moving of such building or structure, and to pay all expenses of raising, lowering or moving and replacing electric light, cable television and telephone wires and poles.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall

guarantee the 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.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of one hundred dollars (\$100.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Public Works Director shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain 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 lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any

question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124
REGISTRATION OF ELECTRICIANS

(Repealed by Ord. No. 2009-12 – Nov. 09 Supp.)

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CHAPTER 125

LICENSING OF PLUMBERS

(Repealed by Ord. No. 2009-12 – Nov. 09 Supp.)

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CHAPTER 126

LICENSING OF GAS FITTERS

(Repealed by Ord. No. 2009-12 – Nov. 09 Supp.)

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CHAPTER 127

PAWNBROKERS

127.01 Definitions	127.09 Renewals
127.02 License Required	127.10 Denial, Suspension or Revocation of License
127.03 License - Criteria Required	127.11 Records
127.04 License Issuance	127.12 Records - Failure to Maintain
127.05 License Fee	127.13 Identification Tags
127.06 Separate License for Each Place of Business	127.14 Prohibited Acts
127.07 Display of License	127.15 Search for Stolen Property
127.08 Sale or Transfer of License	

127.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings given in this section.

1. "Pawnbroker" means every person who makes loans or advancements upon pawn, pledge or deposit of personal property, or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale thereon, or who, by advertisement, sign or otherwise, holds himself or herself out as a pawnbroker.
2. "Police reports" are defined as follows:
 - A. "Positive" means a report or review compiled by the Police Chief which does not disclose a criminal record of a felony, or any conviction under this chapter two or more times, in a calendar year, or a conviction under Chapter 714 of the Code of Iowa.
 - B. "Negative" means a report or review compiled by the Police Chief which discloses a criminal record of a felony, or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the Code of Iowa.

127.02 LICENSED REQUIRED. No person shall engage in the pawn business without first obtaining a pawnbroker license. All applicants for such licenses shall apply in writing to the Clerk. All license applications shall contain the following information:

1. The full name, residential address, business address, date of birth and social security number of the applicant, and where the applicant is a corporation or partnership, of the officers or partners;
2. The name and address of the owner of the premises on which the business is conducted;

3. The business, occupation or employment of the applicant, including location thereof, for the two years immediately preceding the date of application; and
4. The arrest record of the applicant and whether the applicant has ever been convicted of any crime, except simple misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as a result of such conviction.

127.03 LICENSE - CRITERIA CONSIDERED. Upon receipt of a pawnbroker license application, the Clerk shall forward a copy of the application to the Police Chief who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The Police Chief shall report to the Clerk within thirty (30) days after receipt of the application considering but not limited to the following criteria:

1. Whether the applicant or the applicant's agents or employees charged with receiving or distributing property have been convicted of a felony – however, if the conviction of a felony occurred more than five (5) years before the application for a pawnbroker license, and if such person's rights of citizenship have been restored by the Governor, such conviction shall not be a bar to obtaining a pawnbroker license.
2. Whether the applicant has truthfully reported all relevant facts within the pawnbroker application; and
3. The applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the State of Iowa and the City.

127.04 LICENSE ISSUANCE.

1. Upon receipt of a positive police report and the appropriate fees, the Clerk shall approve the application if the applicant has fully complied with all of the requirements of this chapter and the Clerk shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Police Chief. The license shall state the name and place of residence of the person licensed, the business to be transacted and the place where it is to be carried on, and the dates of issuance and expiration of the license.
2. In the event that the Clerk determines that the applicant for a new or renewal license has not fully complied with all of the requirements of

this chapter, or that the Police Department returns a negative report, or that the applicant has falsified the application, than the Clerk shall reject the application and refuse to issue the license. The applicant shall have the right to appeal the Clerk's rejection and have 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.

127.05 LICENSE FEE. An applicant for a pawnbroker license shall submit a fee of two hundred dollars (\$200.00) to the Clerk at the time of filing the application. In the event the application is denied, fifty dollars (\$50.00) of the total fee shall be retained to cover administrative costs.

127.06 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS. Any person conducting several or separate pawnbroker businesses at distinctly different locations shall pay the license fee and procure a license for each location. Any violation of this chapter in one licensed premises shall be deemed a violation in all locations licensed by that pawnbroker.

127.07 DISPLAY OF LICENSE. Every licensed pawnbroker shall display the license conspicuously in the business so that it may be readily observed by all persons entering the premises.

127.08 SALE OR TRANSFER OF LICENSE. No pawnbroker licenses shall be sold or transferred. The purchaser or purchasers of any pawnbroker business or of the majority of the stock of any corporation operating a pawnbroker business shall make application for and obtain a new license before operating such business at the location for which the license has been issued.

127.09 RENEWALS. Every licensed pawnbroker shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid not less than forty-five (45) days prior to the expiration of the current license.

127.10 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

1. A pawnbroker license may be denied, suspended or revoked for any violation of this chapter, including but not limited to the failure to comply with new or renewal application procedures, commission of a prohibited act as set out in Section 127.14 of this chapter, a negative police report, or falsification of a new or renewal application, or for the failure to maintain records in conformity with the requirements enumerated under this chapter.

2. The Clerk, upon receipt of information alleging that grounds exist to deny, suspend or revoke the pawnbroker license of any applicant or licensee under this chapter, and after consultation with the City Administrator, shall report the circumstances to the Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee, which notice shall state that a denial, suspension, or revocation hearing has been set before the Council, the grounds for the proposed denial, suspension or revocation, the date and time of the hearing and the place where the hearing will be conducted. Upon such hearing, if the Council determines that one or more such grounds do exist, it may deny an application or suspend or revoke an existing license. A suspension shall constitute a minimum period of 14 calendar days to a maximum period of 30 calendar days during which period the licensee may not conduct any business except for redemptions and shall conspicuously post a sign stating the terms of the suspension at the entrance of the licensed premises. Such a sign shall be supplied by and posted by the Police Chief. In the event such license is revoked, no pawnbroker license shall be issued to that licensee for a period of one year.

127.11 RECORDS. The Police Department shall furnish pawn log sheets to every licensee who shall accurately and legibly enter in ink in the English language the following information at the time of purchase or receipt of any property:

1. The date and hour of the transaction;
2. The amount paid, advanced or loaned for the article;
3. A detailed and accurate description of the article;
4. When applicable, the model number and/or serial number; and
5. The name and address of the person from whom the property is purchased or received, such person's date of birth, driver's license number, State of Iowa identification number or social security number, sex, age, height, race and type of photo identification presented.

It shall not be deemed compliance with this section if the licensee or the licensee's agent or employee lists his or her own name as the person selling or transferring the article. When the pawn log sheets are complete, or upon demand from the Police Chief, the licensee shall surrender the original sheets to the Police Chief who shall provide a copy of the sheets to the licensee; the originals shall remain the property of the City. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction and description of the article redeemed.

In the event property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed of and the name and address to whom the article was transferred. Such redemption or sales records shall be maintained by the licensee for one year from the date of transaction and shall be at all times open to examination and recordation by the Police Chief.

127.12 RECORDS - FAILURE TO MAINTAIN. No licensee or his or her agent or employee shall fail to maintain or surrender or falsify, delete, alter, destroy or otherwise destroy any records required by this chapter.

127.13 IDENTIFICATION TAGS. The licensee and his or her agents and employees shall also legibly record the date and hour the property was purchased or received on the property or such information shall be securely affixed to the property. Such information must conform to the information recorded pursuant to this chapter. However, those licensed pawnbrokers in possession of property purchased or received prior to November 21, 2000, and for which the date and hour of the transaction is not known, shall submit to the Police Chief a complete and detailed description of the property on an inventory sheet and the date of such inventory shall be securely affixed to the property.

127.14 PROHIBITED ACTS. No licensee or his or her agent or employee purchasing or receiving any article of property shall:

1. Receive any property without first viewing a form of identification containing a photograph of the person identified;
2. Melt, alter, destroy, sell, redeem, remove from the licensed premises or otherwise dispose of such article, within fifteen (15) days after the receipt and report of any property is made as required by this chapter, except upon written permission from the Police Chief;
3. Purchase or receive any property from any person under the age of eighteen (18) without his or her parent or guardian being present at the time of the transaction and without receiving such parent's or guardian's written consent, a copy of which must be submitted along with the records required by this chapter;
4. Purchase or receive any property or surrender any property from six o'clock (6:00) p.m. to eight o'clock (8:00) a.m. Monday through Saturday, and six o'clock (6:00) p.m. Saturday through eight o'clock (8:00) a.m. Monday;
5. Conceal, secrete, or destroy for the purpose of concealing, any article purchased or received for the purpose of preventing identification;

6. Deface, alter or remove any serial number or identifying marks from an article in his or her possession;
7. Take possession of defaced or altered property as described in subsection 6. However, those licensed pawnbrokers in possession of such property as of November 21, 2000, shall have sixty (60) days to dispose of such property.

127.15 SEARCH FOR STOLEN PROPERTY. Whenever the Police Chief has reason to believe that any licensee or his or her agent or employee has possession of any stolen property on the licensed premises, the Police Chief shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property. No licensee or his or her agent or employee shall refuse, resist or attempt to prevent the Police Chief, with or without warrant, from examining the licensed premises for the purpose of discovering stolen property or any violation of this chapter.

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CHAPTER 128

ADULT BUSINESSES

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128.01 DEFINITIONS. Unless the context plainly requires otherwise, the following definitions are given for use in this chapter:

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

A. Businesses that offer merchandise for sale or rent:

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

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

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

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

- a. Expert testimony as to the principal use of the item;
- b. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
- c. National and local advertising concerning the use of the item;
- d. Evidence of advertising concerning the nature of the business establishment;
- e. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- f. The physical or structural characteristics of the item;

g. The manner in which the item is displayed, including its proximity to the other regulated merchandise or signage relating to items in a display area.

Any person may request an interpretive ruling from the Police Chief as to whether a particular item is considered by the City to be “designed or marketed for use” in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Police Chief, and shall be accompanied by such other information as such person may reasonably be requested to provide under the circumstances pertaining to the specific item about which a ruling is requested. The Police Chief shall issue a written interpretive ruling within ten (10) business days following submission of a completed application. The decision of the Police Chief may be appealed to the Council within fifteen (15) days following the interpretive ruling by submitting a written notice of appeal to the Clerk.

B. Businesses that provide entertainment: “Adult entertainment business” means any business to which the public, patrons or members are invited or admitted, and where providing “adult entertainment,” as defined herein, is a regular and substantial portion of its business. The definition of “adult entertainment business” also includes, but is not limited to, any and all of the following specific adult entertainment businesses, as defined herein:

(1) “Adult motion picture theater” means an establishment with a screen or projection areas, where a regular and substantial portion of its business is the exhibition to patrons of films, videotapes or motion pictures which are intended to provide sexual stimulation or sexual gratification to the patrons and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) “Adult theater” means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by patrons.

(3) “Adult entertainment cabaret” means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances; or material which is primarily characterized by an emphasis on specified sexual activities or specified anatomical areas.

(4) “Adult entertainment studio” (includes the terms “rap studio,” “exotic dance studio,” or “encounter studio”) means an establishment whose premises is physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

(5) “Adult encounter parlor” means an establishment where a regular and substantial portion of its business is the provision of premises where patrons congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display specified anatomical areas in the presence of such patrons, with the intent of providing sexual gratification or stimulation to such patrons.

(6) “Body painting studio” means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject’s body displays for the patron’s view specified anatomical areas.

C. Businesses that provide services.

(1) “Bath house” means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

(2) “Adult motel” means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit

television transmissions, films, movies, motion pictures, video cassettes, video tapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six (6) hours at a time.

2. “Adult entertainment” means any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose specified anatomical areas to view, even if completely and opaquely covered.
3. “Communicable diseases” means those diseases which are defined by Chapter 139A of the Code of Iowa, as amended.
4. “Employee” means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of an adult business.
5. “Entertainer” means any person who provides adult entertainment within an adult business, whether or not a fee is charged or accepted for entertainment.
6. “Manager” means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.
7. “Minor” means any person less than eighteen (18) years of age.
8. “Operate” means to own, conduct or maintain the affairs of an adult business.
9. “Operator” means any person owning, operating, conducting or maintaining an adult business.
10. “Patron” means any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business or any employee of the adult business for merchandise, entertainment or service; provided, however, the term “patron” does not include persons who enter an adult business for the sole purpose of

providing service or merchandise to the adult business after the purpose has been accomplished, including but not limited to persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.

11. “Person” means any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group of persons, however organized.

12. “Server” means any person who serves food or drink at an adult entertainment business.

13. “Specified anatomical areas” means: (i) uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or (ii) human male genitals in a discernibly erect state, even if completely and opaquely covered.

14. “Specified sexual activities” means sexual conduct, including actual or simulated acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person’s clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts involving animals or any latent objects in an act of apparent sexual stimulation or gratification.

128.02 LICENSE REQUIRED FOR ADULT BUSINESS.

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

2. It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.

3. The failure to post an adult business license in the manner required herein shall be *prima facie* evidence that an adult business has not obtained such a license. In addition, it shall be *prima facie* evidence that any entertainer, employee, manager or owner who performs any business, service or entertainment in an adult business in which an adult business license is not posted in the manner required herein had knowledge that such business is not licensed.

4. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an “adult business” as defined therein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

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

128.04 LICENSE CLASSIFICATION AND FEES.

1. The license year for all fees required herein shall be from January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated herein by certified or cashier’s check or money order, and no application shall be considered complete until such fee is paid.
2. All licenses shall be issued for a specific location and shall be nontransferable, and license fees shall be nonrefundable.
3. The classifications of licenses and fees are as follows:
 - A. Adult business license fee – \$250.00 per year;
 - B. Manager’s license fee – \$20.00 per year;
 - C. Entertainer’s license fee – a \$20.00 per year;
 - D. Server’s license fee – \$20.00 per year.

128.05 LICENSE LIMITED TO ONE IDENTIFIABLE TYPE OF ADULT USE. All adult business licenses shall be issued only for one adult business use listed on the application. Any change in the type of adult use shall

invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

128.06 LICENSE APPLICATIONS.

1. Adult Business License. All persons desiring to secure a license to operate an adult business as required herein shall make a verified application with the Clerk. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the Clerk and shall require all of the following information:

A. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.

B. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.

C. The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.

D. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders or members who own more than 25% interest in the corporation.

E. A statement from the applicant whether the applicant, or any corporate officer or director, or stockholder, partner or member who owns more than 25% interest in such entity in previously operating in the City or another city, county or state, has had an adult business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.

F. A statement from the applicant, all partners or each corporate officer and director that each such person has not been convicted of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction on a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Iowa Statutes or municipal ordinances. The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

G. On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each employee a health certificate from a duly licensed Iowa physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement. For each person who is employed, the above described health certificate shall be submitted to the Clerk within 48 hours of the time such person begins employment.

H. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Iowa Secretary of State.

I. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult businesses.

2. Manager, Server or Entertainers License. All persons desiring to secure a license to be a manager, server or entertainer shall make a verified application with the Clerk. All applications shall be submitted in

the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the Clerk and shall require all of the following information:

A. The applicant's name, home address, home telephone number, date of and place of birth, social security number, and any stage names or nicknames used in entertaining.

B. If applicable, the name and address of each adult business where the applicant intends to work as a manager, server or entertainer.

C. A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction on a misdemeanor, whichever event is later, within two (2) years immediately preceding the application where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Iowa Statutes or in municipal ordinances. The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

D. The applicant shall present to the Clerk, who shall copy, documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

- (1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
- (2) A state-issued identification card bearing the applicant's photograph and date of birth;
- (3) An official and valid passport issued by the United States of America;

- (4) An immigration card issued by the United States of America;
- (5) Any other form of picture identification issued by a governmental entity that is deemed reliable by the Clerk; or
- (6) Any other form of identification deemed reliable by the Clerk.

3. Incomplete Applications. Failure to provide the information required herein shall constitute an incomplete application. The Clerk shall notify the applicant whether or not the application is complete within ten (10) working days after the date the application was received by the Clerk.

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

128.07 ISSUANCE OF LICENSE OR DISAPPROVAL.

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

128.08 INELIGIBILITY AND DISQUALIFICATION. The following persons are not eligible and no license shall be issued to:

1. An applicant for an adult business license if one or more of the following conditions exists:
 - A. The application is for an adult business located in any zoning district other than a B-1, B-2, B-3, 1-1 or 1-2 zoning district.
 - B. The premises for which an application for an adult business has been made is located within 500 feet of any school, church, licensed child care center, public park, or property zoned or used for residential purposes, which uses are located within the City limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of any school, church, licensed day care center, public park or property zoned or used for residential purposes located within the City; provided, however: (i) the phrase "property zoned or used for residential

purposes” does not include any property zoned for residential use for which a special use permit has been granted for an indefinite period of time and which permit allows a nonresidential use; (ii) the list of protected uses set forth herein excludes streets, alleys and highway rights-of-way; (iii) any school, church or licensed day care center located within commercially zoned property pursuant to a special use permit shall be included as a protected use.

C. The premises for which an application for an adult business has been made is located within 500 feet of any other adult business for which there is a license issued by the City. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the premises from which an adult business would be operated to the nearest point on the property line of such other adult business located within the City; provided however, the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way.

D. The applicant knowingly failed to supply all of the information requested on the application.

E. The applicant knowingly gave materially false, fraudulent or untruthful information on the application.

F. The applicant’s proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City; provided, upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Council.

G. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein.

H. The applicant has had an adult business license or comparable license revoked or suspended in the City or in any other city during the past five (5) years.

I. The applicant is applying for a license to operate a bath house or body painting studio and applicant and has not produced a health certificate as required herein for all persons working on the premises.

2. An applicant for a manager, server, or entertainer license if one or more of the following conditions exist:

- A. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein.
- B. The applicant knowingly failed to provide all of the information required on the application.
- C. The applicant knowingly gave materially false, fraudulent or untruthful information on the application.
- D. The applicant has had a manager, server or entertainer license revoked or suspended in the City or in any other city during the past five (5) years.
- E. The applicant is applying for a license for a manager, server or entertainer in a bath house or body painting studio and has not produced a health certificate as required herein.

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

1. Identification Cards. All managers, servers or entertainers issued a license by the Police Chief under the provisions contained herein, at all times when working in an adult business, shall have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.
2. Age Restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.
3. Exterior Observation. The premises of all adult businesses will be so constructed as to insure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
4. Exterior Display. No adult business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

5. Nudity Prohibited. No manager, employee, server, entertainer or patron in an adult business, other than a licensed bath house, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.

6. Certain Acts Prohibited.

A. No manager, employee, server, entertainer or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates an specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities or participate in any act of prostitution as prohibited by State law or municipal ordinance while on the premises of an adult business.

B. No employee, server, entertainer or patron of an adult business while on the premises of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

C. No employee, manager, server, or entertainer of an adult business shall be visible from the exterior of the adult business while such person is nude or unclothed or in such attire, costume or clothing as to expose to view a specified anatomical area.

D. No employee, manager, server, or entertainer of an adult business shall dance or perform closer than six (6) feet from any customer, employee or other entertainer or dancer and shall at all times perform on a stage which is at least 18 inches high.

E. No entertainer shall solicit, demand or receive any payment or gratuity from any patron for any act prohibited herein and while on the premises of an adult business and no entertainer shall receive any payment or gratuity from any patron for any entertainment except as follows:

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

(2) While such entertainer is not on the stage but while on the premises of an adult business and is clothed so as to not expose to view any specified anatomical area, a patron

may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.

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

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

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

(3) Knowingly allow or permit any person under the age of twenty-one (21) to be in or upon the premises of an adult entertainment business; (*Ord. 2008-06 – Mar. 08 Supp.*)

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

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

7. Signs Required. All adult entertainment businesses that provide live entertainment shall conspicuously display in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least two (2) inches high, and lower case letters at least one inch high, which shall read as follows:

<p>NO ONE UNDER AGE 21 ADMITTED AT ANY TIME FOR ANY REASON</p>
--

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

9. Closed Booths or Rooms Prohibited. The premises of all adult business shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

10. Ventilation and Sanitation Requirements. The premises of all adult businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing rooms for men and women shall at all times be maintained and kept in a sanitary condition.

11. Hours of Operation. No adult business may be open or in use between the hours of two o'clock (2:00) a.m. and nine o'clock (9:00) a.m. on any day other than a Sunday, when the business may not be open between the hours of two o'clock (2:00) a.m. and twelve o'clock (12:00) noon.

12. Facilities Necessary. No adult business licensed to conduct a bath house or body painting studio shall be issued unless an inspection by the City Administrator of Environmental Health or his/her authorized representative reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

A. The walls are clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

B. Toilet facilities shall be provided in convenient locations. A single water closet per gender shall be provided for each 20 or more employees or patrons of that gender on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the gender accommodated therein.

C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Administrator of Environmental Health shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the Clerk; provided, however, nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, or to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

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

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

128.12 SUSPENSION, REVOCATION OR NON-RENEWAL OF LICENSE. Whenever the Clerk has information that:

1. The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this chapter; or
2. There have been recurrent violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or
3. The adult business license or the manager, server or entertainer license was knowingly obtained through false statements in the application for such license, or renewal thereof; or
4. The adult business licensee or the manager, server or entertainer licensee knowingly failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
5. The owner or operator, or any partner, or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided herein; or

6. The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided herein,

then the Clerk shall make this information known to the Council, which, upon five (5) days' written notice to the person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. The Council may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the Council may take any of the following actions: (i) suspend the license for up to ninety (90) days; (ii) revoke the license for the remainder of the license year; or (iii) place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of this chapter occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

128.13 RENEWAL.

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

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

128.15 REGULATIONS. The Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of the Clerk's office and which are not inconsistent with the provisions of this chapter.

128.16 APPLICATION TO EXISTING BUSINESSES.

1. The provisions of this chapter apply to all adult businesses existing on the effective date of the ordinance codified in this chapter as well as to all adult businesses established after such effective date.
2. Any adult business lawfully operating as of the date of the adoption of the ordinance codified herein that does not comply with Section 128.08(1)(A) and (B) herein shall be deemed a nonconforming business. The nonconforming business will be permitted to continue for a period not to exceed six (6) months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming businesses shall not be increased, enlarged, extended or altered except that the business may be changed to a conforming business. If two (2) or more adult businesses are within 500 feet of one another and otherwise in a permissible location, the adult business which was first established and continually operating at a particular location is the conforming business, and any later-established business is nonconforming.
3. An adult business lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the grant or renewal of the adult business license, of a school, church, licensed day care center, public park or property zoned or used for residential purposes located within the City limits and within 750 feet of the adult business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.
4. Any nonconforming business may apply to the council for an extension of time beyond the date provided herein within which to terminate the nonconforming business or make the business conforming. No such extension of time shall be granted for a period longer than one year after the termination date otherwise set forth herein and shall be granted only upon a showing of extreme hardship.

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CHAPTER 129

HOTEL/MOTEL TAX

129.01 Tax Imposed
129.02 Definitions
129.03 Effective Date of Tax

129.04 Collection
129.05 Restrictions on Use of Revenues

129.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State and the guests of a religious institution if the property is exempt under Section 427.1(8) of the Code of Iowa, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

129.02 DEFINITIONS. “Renting” and “rent,” as used in this chapter, include any kind of direct or indirect charge for the use of sleeping rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the sales price from the renting of a sleeping room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

(Code of Iowa, Sec. 423A.1)

129.03 EFFECTIVE DATE OF TAX. The hotel and motel tax as set forth in this chapter shall be imposed on all gross rent receipts received after October 1, 2002.

129.04 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.1)

129.05 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be used as follows:

1. 100% of the revenue derived from the hotel/motel tax shall be expended for the promotion and encouragement of tourism. All requests for funding shall be submitted to a Hotel/Motel Tax Committee, which shall be comprised of the members listed below. Any request for

funding shall be on forms approved by the Committee and shall be reviewed by the Committee to ensure the funding requests meet the requirements established as authorized by Chapter 423A of the Code of Iowa.

	Term
1 Harlan City Council Representative/City of Harlan Appointment	1 year
1 Shelby County Board of Supervisors Representative/Shelby County Appointment	1 year
1 Rural Business Owner/Shelby County Appointment	2 year
1 Harlan Business Owner/City of Harlan Appointment	2 year
1 Rural Resident/Shelby County Appointment	2 year
1 Harlan Resident/City of Harlan Appointment	2 year
1 Chamber Board Representative/Shelby County Chamber Appointment	1 year

Non-voting members: Harlan City Administrator
 Shelby County Auditor
 Executive Director of Shelby County Chamber of Commerce

2. Fiscal Agent. The Shelby County Auditor shall serve as the fiscal agent to receive the tax revenues collected by the State of Iowa and administer the hotel/motel tax without charge. A separate, interest bearing account shall be established at a bank located in Shelby County to be chosen by the fiscal agent. Any requests for funding approved by the hotel/motel tax committee shall be forwarded to the fiscal agent for payment. Any tax revenues received by the City of Harlan pursuant to this chapter shall be immediately forwarded to the fiscal agent named herein for distribution after approval. The fiscal agent shall provide the City of Harlan with an annual report detailing all receipts and expenditures from its hotel/motel account.

(Ord. 2013-01 – Jan. 13 Supp.)

CHAPTER 130

LICENSING OF FORESTERS

130.01 License Required
130.02 Definition
130.03 Helpers Not Required to Obtain License
130.04 Effect

130.05 Enforcement
130.06 License Requirements
130.07 Appeals

130.01 LICENSE REQUIRED. It is unlawful for any person to solicit for hire or other valuable consideration to perform tree surgery; and more particularly and not in limitation thereof, to cut into and excavate cavities or to remove rotten, dead or diseased wood from any tree; to fill in or treat any cavity in a tree; to repair any broken or injured tree; to spray or otherwise treat for pests or diseases any tree or shrubs; to treat in any manner any tree within the City limits of the City, unless such person holds a valid forestry license in good standing granted by the City.

130.02 DEFINITION. “Forestry” means the performance, for hire or other valuable consideration, any of the acts set forth in Section 130.01 and for which a forester’s license is required.

130.03 HELPERS NOT REQUIRED TO OBTAIN LICENSE. Nothing contained in this chapter shall be interpreted as prohibiting the employment, by the holder of a forester’s license, of helpers who are not holders of a forester’s license, provided that the license holder is in direct and personal charge of the work and provided further that such licensee shall first obtain from the Board of Forestry Examiners an employee’s identification card and shall be liable for all acts of said employees.

130.04 EFFECT. A forester’s license shall entitle the holder thereof to perform tree surgery for hire or other valuable consideration, or to do the other work listed in Section 130.01, subject to the requirements and regulations of the Board of Forestry Examiners and ordinances of the City.

130.05 ENFORCEMENT. It is the duty of the Public Works Director to enforce the provisions of this chapter.

130.06 LICENSE REQUIREMENTS. To obtain a forester’s license, the applicant must file proof of insurance as follows:

Bodily Injury: \$300,000.00
Each Occurrence: \$600,000.00

Property Damage:

Each Occurrence.....\$150,000.00

Aggregate.....\$300,000.00

130.07 APPEALS. When any person has made application for a forester’s license or a certificate of compliance under this chapter and such license or certificate has been denied or refused by the Board of Forestry Examiners or when any license or certificate has been revoked or when renewal of any license or certificate has been refused by the City or when any person believes himself or herself otherwise injured or wronged by the City, such applicant or person whose license or certificate has been refused or revoked or such other person above mentioned may appeal from such action of the City by filing a written request with the Clerk within three (3) days after receiving notice of such denial, revocation or other ruling or order. The Council shall, as soon as conveniently may be, hear such appeal and shall take such action or make such orders in the premises as in its opinion may be just and proper. All testimony shall be under oath.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street, alley or right-of-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.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods,

wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Police Chief.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. When requested by the Public Works Director, the applicant shall post with the City a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the

permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of five thousand dollars (\$5,000.00) may be filed with the City.

5. Insurance Required. When requested by the Public Works Director, each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

B. Property Damage - \$50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

135.10 MAINTENANCE OF PARKING OR TERRACE.

1. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

2. No objects, fixtures, fences or landscape apparatuses of any kind, size or shape shall be placed or located in the parking or terrace area of any street right-of-way as described above on a temporary or permanent basis without the prior written consent of the City's Zoning Administrator. Should any property owner fail to obtain said prior written permission as set forth above and thereafter place or locate an object of any kind in the parking or terrace area contrary to this section, the City may remove said object, dispose of said object at its discretion and assess the cost of said removal against the adjacent property owner. Should the property owner fail to pay the assessment, the costs of removal of the offending objects may be certified to the County Treasurer to be collected as taxes.

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; however, it is lawful for a person to redeposit into the street any snow accumulation that snow plows have pushed onto private driveways or sidewalks. In addition, any property owner in the B-1 zoning district, where there is no other adjoining space to deposit snow, may remove snow from a sidewalk to the street prior to the City removal of snow from the streets. However, this exception for B-1 properties does not

mean that snow from commercial parking lots or drives may be pushed, placed or thrown into the street. When the cleaning of large commercial drives in the business district makes it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Encroaching Steps
136.04 Responsibility for Maintenance; Liability for Injuries	136.13 Openings and Enclosures
136.05 City May Order Repairs	136.14 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.15 Defacing
136.07 Permit Required	136.16 Debris on Sidewalks
136.08 Sidewalk Standards	136.17 Merchandise Display
136.09 Barricades and Warning Lights	136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to three-fourths ($\frac{3}{4}$) inch or more.
 - B. Horizontal separations equal to one (1) inch or more.
 - C. Holes or depressions equal to three-fourths ($\frac{3}{4}$) inch or more and at least four (4) inches in diameter.
 - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half ($\frac{1}{2}$) inch or more.
 - E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths ($\frac{3}{4}$) inch or more.
 - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
 - G. A sidewalk with any part thereof missing to the full depth.

- H. A change from the design or construction grade equal to or greater than three-fourths ($\frac{3}{4}$) inch per foot.
3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
 4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
 5. “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.
 6. “Portland cement” means any type of cement except bituminous cement.
 7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
 8. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
 9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours after being deposited, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE; LIABILITY FOR INJURIES. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. An abutting property owner who fails to maintain or repair defective or broken sidewalks as set forth in this section shall be liable for damages caused by said failure to repair, replace or reconstruct broken or defective sidewalks. However, if damages are to be awarded under this section against the abutting property owner, the claimant

has the burden of proving the amount of damages. To obtain a recovery of more than a nominal amount, facts must exist and be shown by evidence which affords a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjuncture or surmise. All legal and equitable defenses are available to the abutting property owner in an action brought pursuant to this section. The City's general duty to maintain public places pursuant to Section 364.12 of the Code of Iowa does not include a duty to remove natural accumulations of snow or ice from sidewalks or to repair, replace or reconstruct all broken or defective sidewalks. However, when the City is the abutting property owner, it has the specific duty of the abutting property owner as set forth in this section.

(Code of Iowa, Sec. 364.12 [2b & 2c]; Sec. 364.14)

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa. However, no sidewalk construction is required when the street adjacent to the property without a sidewalk is not equipped with curb and gutter or if the property without a sidewalk is property subject to a development agreement to which the City is a party and the agreement contains language concerning the installation of sidewalks.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
 - B. Sidewalks located in the B-1 zoning district shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
 - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located one foot on private property and three feet on City property, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be

used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to

enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(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, alleys and/or public grounds and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	DESCRIPTION
63	November 24, 1897	Alley in Block 45 Long's Addition
78	May 16, 1898	Alley in Block 109 of Wyland's Addition
81	December 5, 1898	Portion of Farnam Street
83	September 5, 1899	Alley in Block 17 Long's Second Addition
87	February 4, 1901	Portion of alley in Block 47 Long's Addition
95	December 16, 1901	Certain alleys for railroad purposes: Block 12 – Long's Second Addition Block 14 – Long's Second Addition Block 16 – Long's Second Addition Block 68 – Long's Addition Block 70 – Long's Addition Portion of certain streets for railroad purposes: Durant Street, Walnut Street, Second Street, Baldwin Street, Fourth Street, Elm Street, Fifth Street, Farnam Street, Laurel Street
100	July 8, 1902	Portion of Fifth Street
110	May 21, 1906	Portion of alley in Block 21 of Original Town
113	August 19, 1907	Portion of Baldwin Street
123	March 21, 1910	Alley in Block 45 of Original Town
140	March 18, 1912	Portion of alley in Block 45 Long's Addition
180	October 14, 1921	Thirteenth Street; Fourteenth Street; Fifteenth Street – College Heights Addition; McKinley Avenue; Franklin Street; Morse Street
187	April 17, 1922	Alley and Block 101 of Wyland's Addition
194	May 21, 1923	Portion of Walnut Street
232	February 17, 1936	Portion of alley in Block 47 Long's Addition
239	June 7, 1938	Portion of Anne Street
243	March 19, 1940	Portion of Fourth Street
253	November 6, 1945	Portion of alley in Block 45 Long's Addition
254	April 2, 1946	Portion of alley in Block 45 Long's Addition
257	November 18, 1947	Portion of Victoria Street
282	November 27, 1953	Portion of Fifth Street
295	October 3, 1957	Alley and Block 27 Original Town
297	April 21, 1958	Portion of Eighth Street
299	November 4, 1958	Portion of street in Block 16 College Heights Addition
303	May 19, 1959	Portion of Third Street
318	June 18, 1963	Portion of alley in Block 95 MacDonald's Addition
319	September 3, 1963	Alley line east of Lot 4 of Block 52 in J. M. Long's Addition
321	February 18, 1964	East-west alley in Block 16 Long's Second Addition; Portion of Third Street; Baldwin Street

ORDINANCE NO.	ADOPTED	DESCRIPTION
329	May 23, 1967	Portion of Baldwin Street
339	March 4, 1969	South half of Eighth Street, lying west of Block 27 in Original Plat of City
341	August 19, 1969	North half of Eighth Street lying west of Block 27 in Original Plat of City
342	September 23, 1969	Alley in Block 12 of Original Town
352	December 22, 1970	Portion of Fifth Street
1971-1	February 2, 1971	Alley adjacent to east side of Lot 9 in Block 40 of Long's Addition
1972-5	September 12, 1972	Portion of street right-of-way adjacent to west side of Blocks 117 and 124 in Overholt and Tinsley's Addition
1973-1	January 16, 1973	Portion of Elm Street
1976-6	March 2, 1976	Part of Garfield Avenue west of the 21 st Street Extension
1977-20	June 7, 1977	East-west 16-foot alley in Block 13 Long's Second Addition
1978-17	October 3, 1978	North-south 14-foot alley in O. P. Wyland's subdivision of A.S.D. of Outlot 2
1978-18	October 3, 1978	East-west 12-foot alley in O. P. Wyland's subdivision of A.S.D. of Outlot 2
1979-7	August 21, 1979	Portion of Eleventh Street
1980-1	February 19, 1980	Portion of Eighth Street between Cyclone Avenue and Spring Street
1982-13	September 21, 1982	Portion of Eleventh Street
1985-6	October 1, 1985	Portion of Franklin Avenue between Pine Street and Grand Avenue
1986-6	June 3, 1986	Portion of Franklin Avenue between Pine Street and Grand Avenue
1987-1	April 21, 1987	Third Street between Hill Street and Cyclone Avenue
1988-14	September 20, 1988	Fourth Street from the south side of Victoria Street to the north side of Willow Street
1990-04	March 20, 1990	First Street from south side of the Durant Street ROW, south to the north side of Baldwin Street ROW
1990-06	May 1, 1990	33-foot wide strip of land of the former Highway 64 (also known as Highway 44)
1991-02	March 19, 1991	Easement in Block 7 of Westridge Acres Addition
1991-05	May 20, 1991	East-West easements in Blocks 1, 2 and 3 of Westridge Acres Addition
1991-06	June 4, 1991	Spring Street from west side of Fourth Street ROW to east side of Fifth Street ROW
1991-09	September 3, 1991	Sixth Street from south side of Plum Street ROW south to north side of Dye Street ROW

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CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	DESCRIPTION
103	August 17, 1903	Established grades on certain streets
104	August 19, 1903	First Street through Thirteenth Street
111	October 1, 1906	Ellen Street or Court Street
147	March 16, 1914	Hill Street
149	July 21, 1914	Thirteenth Street between Baldwin Street and Durant Street
152	April 15, 1915	Tenth Street between Baldwin Street and Durant Street
153	April 15, 1915	Durant Street between Tenth Street and Twelfth Street
159	August 9, 1916	Victoria Street, Tenth Street, Laurel Street, Farnam Street, Seventh Street
160	August 11, 1916	Sidewalks on Tenth Street and Laurel Street
161	February 5, 1917	First Street through Thirteenth Street; Plum Street; Dye Street; Dodge Street; Broadway Street; Main Street; Tarkington Street; Spring Street; South Street; Hill Street; Market Street; Park Street; Court Street; Ellen Street; Durant Street; Baldwin Street; Victoria Street; Farnam Street; Willow Street; Laurel Street; Pine Street; Walnut Street; Elm Street; Euclid Street
183	March 20, 1922	Twelfth Street
184	April 10, 1922	Twelfth Street; Pine Street; Grant Avenue; College Boulevard; Lincoln Avenue; Garfield Street; Victoria Street

ORDINANCE NO.	ADOPTED	DESCRIPTION
189	May 1, 1922	First Street through Thirteenth Street; Pine Street; Grant Avenue; College Boulevard; Lincoln Avenue; Garfield Street; Main Street; Spring Street; South Street; Hill Street; Market Street; Park Street; Elm Street; Durant Street; Court Street; Baldwin Street; Victoria Street; Farnam Street; Willow Street; Laurel Street; Pine Street; Walnut Street
190	June 5, 1922	College Boulevard; Park Street; Durant Street; Willow Street; Twelfth Street
200	June 9, 1924	Sidewalks on Pine Street; Ninth Street; Seventh Street; Chatburn Avenue
211	April 17, 1928	Market Street and sidewalks on Market Street
226	November 5, 1934	Seventh Street and Baldwin Street and sidewalks on Seventh Street and Baldwin Street
291	June 21, 1955	Sidewalks on Twelfth Street
308	July 5, 1961	Willow Street; Garfield Street
309	July 5, 1961	Broadway Avenue; Main Street; Tarkington Street; Spring Street; Durant Street; Victoria Street; Pine Street; Third Street; Seventh Street; Eighth Street; College Place
322	May 17, 1966	Centerline grade on portions of East Park Street and Nineteenth Street
334	February 6, 1968	Sidewalks on Willow Street; College Place; Onyx Drive; Garfield Street; Victoria Street; Franklin Street; Fifteenth Street; Morse Avenue; Thirteenth Street; Grand Street; Baldwin Street; Pine Street; Twelfth Street; Sixteenth Street; West Park Street; Fourteenth Street
347	August 4, 1970	Durant Street; Industrial Avenue; Nineteenth Street; Pine Street; Sixth Street; South Street; Tenth Street; Twelfth Street
1977-10	February 15, 1977	Fifth Street
1977-18	April 19, 1977	Fourth Street; Ninth Street; Morse Avenue; Pine Street; Willow Street
1982-15	December 7, 1982	Pine Street; Tenth Street to Twelfth Street
1988-3	January 19, 1988	Industrial Parkway (12 th Street to Highway 59)

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map
139.06 Naming Private Roads or Streets

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Harlan, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

139.06 NAMING PRIVATE ROADS OR STREETS. In order to assist emergency personnel with the location of residences situated on or along privately owned streets, roads, paths, passageways or any other roadways which regularly accommodate vehicular traffic, the owners of all privately owned streets or roads shall name said streets or roads as provided therein.

1. The owner shall propose a name for the privately owned road and make written application to the Zoning Administrator for approval of the proposed name.
2. The proposed name shall be different in spelling and be phonetically different from any other public or private street already named in the City and shall not contain the labels "Street," "Avenue" or "Boulevard."
3. Once the Zoning Administrator approves the proposed name, said officer shall purchase and erect a street sign and pole in order to publicly and conspicuously display the name of the street in a manner and location similar to the location of other street signs and poles.
4. The application for approval of a proposed name for a privately owned street or road shall be accompanied by a non-refundable application fee of \$200.00. The application fee shall be used to defray the cost of the sign, the pole and their installation by the Zoning Administrator.

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited

140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

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

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

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

1. Project No. F-322, FN-322. On the Primary Road System extension improvement, Project No. F-322, FN-322, Primary Road No. U.S. 59, within the City, described as follows:

From the south corporate limits (Sta. 519 + 69.5) to the junction of Iowa 64 (Sta. 531 + 06.6); thence to Station 585 + 61.5 = Station 13 + 91.4; thence to the north corporate limits (Sta. 39 + 62.0)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-322, FN-322, on file in the office of the Clerk.

2. Project No. F-FG-59-4(3)—20-83. On the Primary Road System extension improvement, Project No. F-FG-59-4(3)—20-83, Primary Road No. U.S. 59 and Iowa 64, within the City, described as follows:

On U.S. 59 from Station 513 + 71 at the south corporation line, thence northwesterly to Station 539+ 85.4 at the north corporation line (Willow Street); and

On Iowa 64 from Station 2593 + 30 at the west corporation line, thence easterly to Station 2606 + 00.

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-FG-59-4(3)—20-83, on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.06 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.
3. Primary Roads No. U.S. 59 and Iowa 64. Parking of any nature is prohibited on the extension of primary road No. U.S. 59 from Station

513 + 71 at the south corporation line, thence northwesterly to Station 539 + 85.4 at the north corporation line (Willow Street) and on the extension of primary road No. Iowa 64 from Station 2593 + 30 at the west corporation line, thence easterly to Station 2606 + 00.

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CHAPTER 141

PARKING AREAS ON STREET RIGHT-OF-WAY

141.01 Definitions

141.02 Surfacing of Parking

141.03 Permit Requirements

141.04 Parking Restricted

141.05 Barricades and Warning Lights

141.06 Restoration of Public Property

141.07 Safety and Compliance

141.08 Final Approval

141.09 Responsibility for Maintenance

141.10 Building, Planting or Using Property Located in a
Street, Road, or Alley Right-of-Way

141.01 DEFINITIONS. For the purpose of this chapter, the following definitions apply:

1. “Parking” means that part of the street 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 lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. “Surfacing” means any kind of hard surfacing, including, but not limited to, Portland cement concrete and bituminous concrete with the necessary base. “Surfacing” does not include surfacing with oil, gravel, oil and gravel, or chloride.

141.02 SURFACING OF PARKING. The City may permit the surfacing of the area between the curb and the standard required width of the walk for the purpose of parking vehicles in the area, and the additional surfaced area shall not be deemed part of the sidewalk. The grade of any sidewalk shall not be altered by any work done. No part of the street right-of-way not included in the traveled way or sidewalk shall be used for parking of vehicles or machinery except that it be surfaced with a dust-proof material as required by the City.

141.03 PERMIT REQUIREMENTS. Before any person surfaces the parking, the person shall obtain a written permit from the City Administrator. The permit shall include a legal description of the property, the name of the property owner, the proposed plan of construction which includes the depth, width, and type of surfacing material to be used, and an in-scale sketch of the proposed installation.

1. All permits are to be checked by the Municipal Utilities for utility location prior to construction.
2. No other plan shall be followed except by written permission of the City Administrator, who may allow amendments to the permit that do not conflict with this chapter. The City Administrator shall issue the permit, bearing the Administrator’s signature and the date of issuance, if

the proposed plan meets all of the requirements of this chapter and if the construction as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire six (6) months from the date of issuance, if construction is not completed within that time.

3. All permits shall be for the adjoining parking directly adjacent to property owned by the permittee.

4. Any parking area presently being used shall comply with this chapter by the owner's applying for a permit and following all provisions of this chapter.

5. A permit may be granted only if there is a showing that the encroachment will not cause traffic problems upon the street, obstruction of sight distances at or near alleys or street intersection, and that the use is compatible with the area in which it is proposed to be used.

6. Requirements for sight distance shall mean that a vehicle shall in no case be parked closer than thirty-five (35) feet from the curb line of an intersecting street, or closer than fifteen (15) feet to the nearest curb line of an alley, or closer than five (5) feet to an adjacent private property line.

141.04 PARKING RESTRICTED. No vehicles larger than one-ton pickups are allowed to park on the parking. The permit shall specify whether angle or parallel parking will be permitted and the distance of the curb opening that is granted. In no event shall it be possible for a vehicle to park so that its front bumper extends over the pedestrian walkway. It is also illegal for any part of the vehicle to extend into the traveled portion of any City street.

141.05 BARRICADES AND WARNING LIGHTS. Excavations to do work under this chapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times and warning lights in place from one-half hour before sunset to one-half hour after sunrise.

141.06 RESTORATION OF PUBLIC PROPERTY. Any street, sidewalk, or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. After refilling, the affected area shall be maintained in good repair to the satisfaction of the Council.

141.07 SAFETY AND COMPLIANCE. A permit for the surfacing and establishment of an area for parking of vehicles for the convenience of visitors

and tenants of an institution, commercial establishment, or apartment may be granted only if the pattern of parking will not cause undue hazards to the traffic upon the street with consideration given to the volume and character of traffic on the main traveled way, if no parked vehicle will block the necessary line of sight of the drivers of vehicles entering from intersecting streets or alleys, if the surfacing of the parked area shall be of a type to avoid dust or similar nuisance and compatible with the development of the district in which it is being requested, and if all sections of this chapter dealing with the construction of said parking are followed.

141.08 FINAL APPROVAL. The parking must be inspected and approved in writing by the City Administrator within thirty (30) days after completion of the work. The City Administrator shall keep a record of such approvals in the Administrator's office. If the City Administrator refuses to approve the work, it must be corrected immediately so that it will meet with the City Administrator's approval. If the work has been done improperly, the City Administrator shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessments shall be collected with the general property taxes and in the same manner. The City Administrator may at any time revoke the permit for any violation of the chapter and may require that work be stopped.

141.09 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective parking and to maintain it in a safe and hazard-free condition.

141.10 BUILDING, PLANTING OR USING PROPERTY LOCATED IN A STREET, ROAD, OR ALLEY RIGHT-OF-WAY. Any person, corporation, or entity of any kind who builds a structure, plants a tree, bush, shrub, foliage of any kind, or does any landscaping to any extent within the confines of any City street, road or alley does so at his, her or its own risk. Should the City of Harlan or the Harlan Municipal Utilities or any other privately-owned utility with infrastructure located within the confines of said street, road, or alley right-of-way, disturb the ground, or otherwise clear structures, fixtures, landscape apparatus, bushes, trees or plants located in an existing street, road, or alley right-of-way or in any way use said right-of-way to maintain, replace or relocate a utility structure or device, or in any other way use any portion of said City right-of-way, the City of Harlan, Harlan Municipal Utilities, or the assigns of either shall not be responsible for replacing, repairing, replanting, or restoring any structure or plant placed within said right-of-way by the property owner. There shall be one exception to this general rule: Should the City of Harlan, Harlan Municipal Utilities, or the assigns of

either, damage or destroy any mailbox erected by a property owner within the confines of the street, road, or alley right-of-way, through use of the right-of-way including but not limited to snow removal or street cleaning, the City of Harlan or Harlan Municipal Utilities shall pay the actual costs of replacement or repair up to a maximum of \$50.00.

CHAPTER 142

DRIVEWAY REGULATIONS

142.01 Definitions

142.02 Permit

142.03 Driveway Requirements

142.04 Sidewalks

142.05 Revocation of Permit

142.06 Inspection and Approval

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
2. “Paving” includes any kind of hard surfacing, including but not limited to, portland cement concrete and bituminous concrete, with the necessary base. “Paving” does not include surfacing with oil, gravel, oil and gravel or chloride.

142.02 PERMIT. Before any person shall construct or repair a driveway, said person shall obtain a written permit from the City Administrator. A written application for the permit shall be filed with the City Administrator. The application shall include the legal description of the property, the name of the property owner, the name and address of the person who will do the work and the proposed plan of construction or repair, which shall include the depth, width and type of surfacing material to be used. No other plan shall be followed except by written permission of the City Administrator, who may allow amendments to the application or permit that do not conflict with this chapter. The City Administrator shall issue the permit, bearing the City Administrator’s signature and the date of issuance, if the proposed plan meets all of the requirements of this chapter, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire six (6) months after the date of issuance, if not constructed within that time.

142.03 DRIVEWAY REQUIREMENTS. All driveways shall be at least twelve (12) feet in width. The driveway may be placed directly on compact and well-drained soil. Where soil is not well drained, a six-inch (6") sub base of compact, clean, coarse gravel, sand or cinders shall be laid. The driveway shall slope not more than two (2) inches per foot toward the roadway. The maximum driveway width at the curb line shall be twenty (20) feet except for commercial driveways when consent of the City Administrator is received. All driveway

approaches shall be paved from the roadway to the sidewalk. If there is no sidewalk, the approach shall extend to the property line. Residential driveways shall be of paving at least eight inches thick from the roadway back two feet, six inches thick from the two-foot point to one foot inside the property line, and at least four inches thick from one foot inside the property line on back to the house. Industrial and commercial driveways shall be of paving at least eight inches thick from the roadway back two feet and at least six inches thick from that point back to the building.

142.04 SIDEWALKS. The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

142.05 REVOCATION OF PERMIT. The City Administrator may at any time revoke a permit for any violation of this chapter and may require that the work be stopped.

142.06 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the City Administrator within thirty (30) days after completion of the work. The City Administrator shall keep a record of such approvals in his or her office. If the work is not approved, it must be corrected immediately so that it will meet with the City Administrator's approval. If the work has been done improperly, the City Administrator shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number of the principal building from the Fire Chief/Building Inspector.

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

(Ord. 2014-01 – May 14 Supp.)

2. In order to aid emergency personnel with the location of specific addresses in the city of Harlan as they respond to calls for emergency assistance, owners shall display their building numbers as follows: If the front edge of the owner’s principal building is located less than 75 feet from the street curb or the nearest edge of the street, the owner shall install or cause to be installed and maintained on the front of the principal building, the assigned number in a conspicuous place visible from the street in figures not less than four (4) inches in height and of a contrasting color with background of the figures. If the front edge of the owner’s principal building is located more than 75 feet from the street curb or the edge of the street, the owner shall install or cause to be installed and maintained on the owner’s curbside mailbox, or on a sign post at the curb on the same side of the street as the principal building, the assigned number in figures not less than four (4) inches in height and of a contrasting color with the background of the figures.

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

(Ord. 2014-01 – May 14 Supp.)

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of ten (10) 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 or as otherwise required in the

proceeding subsection (2) and assess the costs against the property for collection in the same manner as a property tax.

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

(Ord. 2008-16 – Dec. 08 Supp.)

150.03 BUILDING NUMBERING MAP. The Fire Chief/Building Inspector shall be responsible for preparing and maintaining a building numbering map.

(Ord. 2014-01 – May 14 Supp.)

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

BUILDING, MECHANICAL, PLUMBING AND ELECTRICAL CODES

155.01 Adoption of Construction & Maintenance Codes
155.02 Adoption of Dangerous Building Code
155.03 Enforcement; Penalties
155.04 Amendments, Modifications, Additions
and Deletions

155.05 Mobile Homes
155.06 Modular or Sectional Homes
155.07 Conflict with State Laws
155.08 Emergency or Supplemental Generators

155.01 ADOPTION OF CONSTRUCTION & MAINTENANCE CODES. Pursuant to published notice and public hearing, as required by law, the *International Building Code (Commercial)*, 2012 Edition, with the deletion of Appendixes A, B, D, K, L, and M, and the *International Residential Code*, 2012 Edition, with the deletion of Appendix I, (and with the addendum to Appendix J that no building permits will be required for maintenance items such as siding, roofing, painting, carpeting, dry wall, insulation; repairs and replacement of existing doors, windows, driveways and fences, replacement or repair of worn plumbing valves, faucets, broken pipes and drains, lavatories, tubs and toilets; replacement of electrical switches, receptacles, light fixtures, fans, etc., and repairs or replacements of furnaces, water heaters, and central air conditioning (like to like), the *International Mechanical Code*, 2012 Edition, the *International Plumbing Code*, 2012 Edition, the *International Fuel Gas Code*, 2012; the *International Property Maintenance Code*, 2012 Edition, the *International Existing Building Code*, 2012 Edition, all as published by the *International Code Council* and the code designated as NFPA 501: *Standard for Manufactured Housing*, 2010 Edition, published by the National Fire Protection Association, the *National Electrical Code*, 2014 Edition, and the 2012 *International Fire Code* are hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. Be it further adopted that in any instance where the Code of Ordinances of the City of Harlan conflicts with any of the codes set out above, that the City Administrator will make the determination of which code shall be followed. Official copies of the aforementioned codes are on file in the office of the Clerk.

(Ord. 2014-09 – Aug. 14 Supp.)

155.02 (Repealed by Ord. 2012-03 – June 12 Supp.)

155.03 ENFORCEMENT; PENALTIES. Provisions of these adopted codes shall apply to all construction and reconstruction work in the City, whether done by licensed individuals, firms, corporations or companies or by any person excepted from the licensing requirement. Any person who shall

violate any of the provisions of the Codes hereby adopted or fail to comply therewith or who shall violate or fail to comply with any order made thereunder, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

155.04 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions are hereby made:

1. Amended by repealing and replacing with the following sentence:

“The federal, state, county and municipal (including Harlan Municipal Utilities) governments shall be exempt from the payment of permit fees.”
2. Amending and replacing with the following table of building permit fees:

BUILDING AND SIGN CONSTRUCTION PERMIT FEE SCHEDULE

\$0.00 to \$499.99	\$	15.00
\$500.00 to \$999.99	\$	20.00
\$1,000.00 to \$4,999.99	\$	30.00
\$5,000.00 to \$9,999.99	\$	50.00
\$10,000.00 to \$19,999.99	\$	75.00
\$20,000.00 to \$29,999.99	\$	100.00
\$30,000.00 to \$39,999.99	\$	125.00
\$40,000.00 to \$49,999.99	\$	150.00
\$50,000.00 to \$74,999.99	\$	175.00
\$75,000.00 to \$99,999.99	\$	200.00
\$100,000.00 to \$199,999.99	\$	250.00
\$200,000.00 to \$299,999.99	\$	300.00
\$300,000.00 to \$399,999.99	\$	350.00
\$400,000.00 to \$499,999.99	\$	400.00
\$500,000.00 to \$599,999.99	\$	450.00
\$600,000.00 to \$699,999.99	\$	500.00
\$700,000.00 to \$799,999.99	\$	550.00

\$800,000.00 to \$899,999.99.....	\$ 600.00
\$900,000.00 to \$999,999.99.....	\$ 650.00
\$1,000,000.00 to \$1,999,999.99.....	\$ 700.00
\$2,000,000.00 to \$2,999,999.99.....	\$ 800.00

And for each additional \$1,000,000.00 construction value there will be an additional \$100.00 fee.

(Ord. 2008-18 – Jan. 09 Supp.)

3. A detached garage, not exceeding six hundred (600) square feet in area may be constructed without frost footings. A detached garage greater than six hundred (600) square feet will require footings to be minimum of six (6) inches in width and thirty-six (36) inches in depth. All structural slabs will be a minimum of four (4) inches thick. One and two-story dwellings, attached garages and additions to the principal building will require frost footings as below:

Forty-two (42) inches in depth, sixteen (16) inches in width and eight (8) inches in thickness or a slab on grade may be trenched eight (8) inches wide and forty-two (42) inches deep.

The exception to this regulation is the waiver of frost footings for non-occupied, non-heated, pre-engineered buildings in all industrial and business districts (i.e., storage facilities). In those cases, the approval of the building of such structures will be permitted upon receipt of certified engineer’s drawings specifying the slab design and foundation preparation of the structure.

(Ord. 2008-12 – Sep. 08 Supp.)

4. Amendment to §503.2.1 of the *International Fire Code* (IFC) to reduce the width to 16 feet for all streets in the City of Harlan with less than 28 feet of hard surface. (See Chapter 69)

(Ord. 2016-07 – Nov. 16 Supp.)

155.05 MOBILE HOMES.

1. No mobile home, except those already located within the corporate limits, shall be used for dwelling purposes within the City if it does not meet the standards set out in the Standards for Mobile Homes adopted by *International Residential Code* (IRC), per current adopted edition (see 155.01). The permit fee for placement of a mobile home shall be as per the fee schedule set out in Section 155.04.

2. The Building Official shall insure that the installation requirements shall be enforced as per the IRC, per current adopted edition (see 155.01).

(Ord. 2014-09 – Aug. 14 Supp.)

155.06 MODULAR OR SECTIONAL HOMES. Modular or sectional homes shall comply with all requirements of manufactured homes as defined in the *International Residential Code* (IRC), per current adopted edition (see 155.01).

(Ord. 2014-09 – Aug. 14 Supp.)

155.07 CONFLICT WITH STATE LAWS. Nothing in this chapter or in any of the codes under Section 155.01, as adopted, shall be construed to be in conflict with State laws or the State Housing Code. In the event of such conflict, the State law shall prevail.

155.08 EMERGENCY OR SUPPLEMENTAL GENERATORS.

1. Requirements. In order to avoid metering and safety related backfeed problems, the City, acting through the Harlan Municipal Utilities (HMU), shall be permitted to review for approval all existing electric customer-owned emergency or supplemental generation equipment installations. Additionally, customers shall not attach any new generation equipment to the HMU electrical system without prior written approval of the City.

2. Procedures. The installation of customer-owned generation equipment will require the following:

A. Any customer proposing to install and operate electric generation equipment shall provide switching protections as required by HMU and as approved by the HMU Electric Superintendent.

B. All equipment shall be constructed and installed per NEC, NEMA, IEEE and all other applicable electric codes and standards.

C. The customer or the customer's designated installer shall provide the City Building Inspector with accurate, complete one-line and schematic drawings of the proposed installation prior to construction for review and approval.

D. The customer shall obtain all appropriate building permits, inspections and approvals from the City and the HMU Electric Superintendent before installation of any electric generation equipment.

E. All generators and appurtenant electrical equipment and connections shall be subject to inspection by HMU or the City at any time. Any installation not in conformance with the requirements of this section may be disconnected from the HMU system.

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose	160.13 Flood Plain Development Permit Required
160.02 Definitions	160.14 Application for Permit
160.03 Lands to Which Chapter Applies	160.15 Action on Application
160.04 Rules for Interpretation of Flood Hazard Boundaries	160.16 Construction and Use to Be as Provided in Application and Plans
160.05 Compliance	160.17 Variances
160.06 Abrogation and Greater Restrictions	160.18 Factors Upon Which the Decision to Grant Variances Shall be Based
160.07 Interpretation	160.19 Conditions Attached to Variances
160.08 Warning and Disclaimer of Liability	160.20 Nonconforming Uses
160.09 General Flood Plain Management Standards	160.21 Amendments
160.10 Special Floodway Standards	
160.11 Special Shallow Flooding Areas Standards	
160.12 Administration	

160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance,

the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and

B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and

D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “Minor Projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.

20. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

21. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

22. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

23. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
24. “Routine Maintenance of Existing Buildings and Facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
25. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A, AE, A1-A30, AO, and AH on the City’s Flood Insurance Rate Map.
26. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory

buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

28. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

29. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

30. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

31. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

(Ord. 2015-03 – Feb. 15 Supp.)

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands and uses which have special flood hazards. The Flood Insurance Rate Maps (FIRM) for Shelby County and Incorporated Areas, City of Harlan, Panels 19165C0186C, 0187C, 0188C, 0189C, 0191C, 0193C, dated June 16, 2015, which were prepared as part of the Shelby County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year floodplain shall be considered as having special flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Flood Insurance Study for Shelby County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

(Ord. 2015-03 – Feb. 15 Supp.)

160.04 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Public Works Director shall make the necessary interpretation.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for

any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 GENERAL FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Development which involves the placement of structures, factory built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Iowa Department of Natural Resources to determine whether the land involved is either wholly or partly within the floodway or floodway fringe. Where 100-year flood elevation data has not been provided in the Flood Insurance Study, the Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the areas of significant flood hazard shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement)

elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator. (*Ord. 2015-03 – Feb. 15 Supp.*)

4. All new and substantially improved structures:

A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.
 - A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
 - B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems.
 - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate

interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.10 SPECIAL FLOODWAY STANDARDS. In addition to the general flood plain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the flood insurance study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

2. All uses within the floodway shall:

A. Be consistent with the need to minimize flood damage.

- B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
 4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
 7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
 8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
 9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.11 *(Repealed by Ord. 2015-03 – Feb. 15 Supp.)*

160.12 ADMINISTRATION. The City Administrator shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following: *(Ord. 2015-03 – Feb. 15 Supp.)*

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and

local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area. *(Ord. 2015-03 – Feb. 15 Supp.)*

4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed. *(Ord. 2015-03 – Feb. 15 Supp.)*

5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.13 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.14 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.

4. Flood Elevation. Elevation of the 100-year flood.

5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.

(Ord. 2015-03 – Feb. 15 Supp.)

6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary for the purpose of this chapter.

160.15 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.16 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.17 VARIANCES. The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

160.18 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. Such other factors which are relevant to the purpose of this chapter.

160.19 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.18, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

160.20 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.21 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or

repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 PURPOSE AND INTENT. In the interpretation and application of this chapter, the provisions of this chapter shall be held to be the minimum requirements adopted for the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community.

165.02 DEFINITIONS. The words “use,” “used,” “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied. The following words are defined for use in this chapter.

1. “Accessory structure or use” means a separate subordinate building or structure, the use of which is incidental to that of the main building and is located on the same lot as the main building.
2. “Agriculture” means the use of land for agricultural purposes, including necessary buildings and structures which shall be used for agriculture including, but not limited to, farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry, except certain forms of confinement feeding, and the necessary accessory uses for packing, treating or storing the produce; provided, however, the operation of any such accessory uses shall be secondary to that of the normal agriculture activities.

3. "Airport" means any area of land or water which is used or intended for use for the landing and taking off of aircraft; and any accessory areas which are used or intended for use for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.
4. "Alley" means a public or private way less than twenty-one (21) feet in width affording secondary means of access to abutting property.
5. "Appropriate infill" means that which meets requirements of surrounding areas.
6. "Automobile repair, major" means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint shop, vehicle steam cleaning.
7. "Automobile repair, minor" means minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks, but not any operation specified under "automobile repair, major."
8. "Automobile wrecking yard" means any area of land where two (2) or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for the wrecking or storing of such motor vehicles or parts thereof, not in running condition.
9. "Average lot width" means the width determined by dividing the total lot area by the depth of the lot from the right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way line are not parallel, an average depth dimension shall be used.
10. "Basement" means a story having part but not more than fifty percent (50%) of its height below the average grade or the adjoining ground (as distinguished from a "cellar"). A basement shall be counted as a story for purpose of height measurement.
11. "Bed and breakfast" means a building occupied by the owner with not more than four (4) rooms for overnight guests (on a rental basis) if located in an existing building, or if located in a newly constructed building the maximum number of overnight guests shall be based upon two thousand (2,000) square feet of lot area per overnight guest room.
12. "Blockfront" means that portion of a block in which the front yards on either side of a public street face each other.

13. “Boarding house” means a building other than a hotel or motel or group home where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons.
14. “Building” means any structure for the shelter or enclosure of persons, animals or chattels or other property.
15. “Building height” means the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement may be taken from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above grade.
16. “Carport” means no enclosure except roof.
17. “Cellar” means a story having fifty percent (50%) or more of its height below the average grade of the adjoining ground. A cellar shall be counted as a story, for purpose of height measurement, only if used for dwelling purposes other than by a janitor or caretaker employed on the premises.
18. “Child care center” means a facility providing child day care for seven (7) or more children, except when registered as a group day care home.
19. “Commission” means the Planning and Zoning Commission of the City.
20. “Conversion condominium” means condominium projects not originally built and sold as condominiums but subsequently converted to condominium use.
21. “Club” means an organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches, synagogues, or other houses of worship.
22. “Dwelling” means a building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, travel or camping trailer, or a room in a hotel or motel.
23. “Dwelling unit” means one (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use by one (1) family, and which includes

cooking space and lawful sanitary facilities reserved for the occupants thereof.

24. “Dwelling, single family” means a detached residence designed for or occupied by one (1) family only.

25. “Dwelling, multiple family” means a residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

26. “Dwelling, condominium” means a form of ownership where buyer received title to a three-dimensional airspace containing the individual living units together with an undivided interest or share in the ownership of common elements.

27. “Dwelling, townhouse” means any of three (3) or more residences designed for or occupied by one (1) family each, which is attached. Each dwelling is designed and erected as a unit and separated from each other dwelling by a wall.

28. “Density” means the number of dwelling units permitted per net acre of land.

29. “Essential services” means the erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies, of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, above ground structures, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public health or safety or general welfare, but not including buildings. Minimum lot size requirements of each district will not apply to such uses, except for Service (Utility) Structures as regulated by this chapter.

30. “Family” means one (1) or more persons immediately related by blood, marriage or within third degree of consanguinity or affinity and living as a single housekeeping unit in a dwelling. A family may include, in addition, not more than two (2) persons who are unrelated for the purpose of this title. The following persons shall be considered related for the purpose of this chapter:

A. A person residing with a family for the purpose of adoption.

- B. Not more than six (6) persons under nineteen (19) years of age, residing in a foster home licensed or approved by the State of Iowa.
 - C. Not more than four (4) persons nineteen (19) years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the state or its delegate.
 - D. Any person who is living with a family at the direction of a court.
31. “Family day care home” means a facility providing child care to less than seven (7) children,.
32. “Fence” means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
33. “Flood plain” means any land area susceptible to being inundated by water from any source.
34. “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.
35. “Garage, private” means a detached accessory building or portion of a principal building used for the storage of self-propelled passenger vehicles or trailers of the occupants of the premises and/or not more than one (1) truck of a rated capacity not exceeding one and one-half (1½) tons.
36. “Group day care home” means a facility providing child care for more than six (6) but less than twelve (12) children, with no more than six (6) children at one time being less than six (6) years of age.
37. “Height” means, in the case of a wall, or part of building, the vertical distance from the average established curb grade in front of the lot or from the average finished grade at the building line, if higher, to the average height of the top of the cornice of a flat roof, or roof line, or to the deck line of a mansard roof, or to the average height of the highest gable or dormer in a pitched or hipped roof, or if there are no gables or dormers, to the average height of such pitched or hipped roof.
38. “Highway or primary thoroughfare” means an officially designated Federal or State numbered highway or other road designated as an interstate, arterial, or collector on the transportation plan as officially adopted and amended from time to time by the Commission and Council or Board of Supervisors.

39. “Home Occupation” means a business, occupation, trade, or activity conducted for gain or support carried on within a residential structure, or when permitted, a structure accessory to a residential structure and having no more than one (1) additional employee on-site at a time, (this does not include an employee who is a member of the immediate family residing in the dwelling unit); provided that, such occupation or activity is incidental and secondary to the residential use; that there shall be no display of goods visible from the street; and that such use does not change the residential character of the principal or accessory structures either structurally or so as to produce emissions of odor, gas, smoke, dust, noise, electrical disturbance or other output not usually associated with permitted residential uses. Such uses as clinics, hospitals, tea rooms, tourist homes, bed and breakfast, animal hospitals, kennels, welding, vehicle repair, mechanical repair, rebuilding or dismantling of vehicles or motors and other uses of a similar nature shall not be considered a home occupation.

(Ord. 2016-08 – Nov. 16 Supp.)

40. “Junkyard” means an open area or fenced-in enclosure, where used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes an automobile wrecking yard but does not include uses established entirely within closed buildings.

41. “Land use plan” means the comprehensive long-range plan for the desirable use of land in the County, as officially adopted and as amended from time to time by the Commission and County Board of Supervisors or the Council; the purpose of such plan is, among other things, to serve as a guide to the zoning and progressive changes in the zoning of land to meet changing needs, in the subdividing for such public purposes as streets, parks, schools, and other public buildings or public uses.

42. “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are herein required. A lot may front on a private roadway, or have other frontage requirements if specifically provided in this chapter. Such lot shall have frontage on an improved public street and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record, of complete lots of record or of portions of lots of records; or (iv) a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

43. “Lot, corner” means a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be

considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

44. “Lot area” means the horizontal area within the lot lines of the lot.

45. “Lot depth” means the average horizontal distance from the midpoint of the front lot line and rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

46. “Lot frontage” means the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under “Yards” in this section.

47. “Lot width” means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall be not less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement does not apply.

48. “Mobile home dwelling” means a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers and arriving complete and ready for occupancy at the site where it is to be occupied as a dwelling, except for minor and incidental unpacking or assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. A recreational travel trailer is not to be considered as a mobile home.

49. “Mobile home park” means any site, or tract of land under single ownership, upon which are located two (2) or more mobile homes used as dwellings, either free of charge or for a fee. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

50. “Motor fuel station” means a place where minor automobile repair is conducted and where gasoline, diesel oil, kerosene, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling and the sale of automobile accessories on the premises.

51. “Nonconforming lot” means an unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
52. “Nonconforming structure” means a structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.
53. “Nonconforming use” means an existing use of a structure or land which does not comply in some respect with the use regulations applicable to new uses in the zoning district in which it is located.
54. “Parking lot” means an area consisting of six (6) or more parking spaces for the storage of automobiles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for an automobile, provided that there shall be no storage of automobiles for the purpose of sale or resale.
55. “Parking space” means an area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.
56. “Planned Development District” means an area of land controlled by a landowner to be developed as a single entity for a number of dwelling units, office uses, commercial uses, industrial uses or any combination thereof, if any, the plan for which may not correspond in lot size, bulk or type of dwelling or commercial or industrial use, density, lot coverage and required open space, to the regulations established for any one or more of the other zoning districts in these regulations. Terms such as “Planned Unit District” and “Planned Development” used herein, shall be construed to have the same meaning as the full term, “Planned Development District.” No development of real estate as a Planned Development District pursuant to this chapter shall be undertaken without Council approval.
57. “Public use” means a building or premises owned by any government entity, including local, County, State or Federal government units and their subdivisions, and in some form of public use.
58. “Service (utility) structures” means any above ground structures with permanent location. An apparatus that is used by a utility or any firm supplying service to the public that is used for controlling or to monitor distribution of services.
59. “Sign” means any device designated to inform, or attract the attention of persons not on the premises on which the sign is located,

provided however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names or occupants of premises, or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government except when displayed in connection with commercial promotion.
- C. Legal notices, identification, information or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- E. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

60. "Signs, number and surface area" means, for the purpose of determining number of signs, a single display surface or display device containing element organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

61. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or the ceiling or roof next above such floor, provided that, for the purpose of determining the required dimensions of yards and courts, when the average story height of a building exceeds twelve (12) feet, each twelve (12) feet or fraction thereof of the total building height shall be considered a separate full story or fractional story respectively, except the first story which may be fifteen (15) feet high.

62. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which in at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, any partial story used for residence purposes, other than for a janitor or caretaker and his family, shall be deemed a full story.

63. “Street line” means any public way set aside as a permanent right-of-way for vehicular or pedestrian access.

64. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location in the ground. Among other things, structure includes buildings, mobile homes, walls, fences, billboards, poster panels, commercial antennas, tanks, portable devices if so placed or used as to constitute a permanent or semi-permanent use or structure.

65. “Structure, principal residential” means the permitted residential structure or building intended for use as the primary and not accessory use of the property.

66. “Yard, corner lot” means each yard abutting the two (2) streets on each side of the corner. On each corner lot, the sides of the lot adjacent to streets shall be considered frontage. In any proposed construction affecting any corner lot, where the zoning requirements would normally require a yard which is not in keeping with the prevailing yard patterns of primary structures on the same side of any street and located in the same City block, the administrative official charged with the enforcement of these zoning regulations may waive the requirement for the normal or required yard and substitute therefor a special yard requirement which shall not permit any primary structure or addition to any primary structure to reduce the size of the yard to be any smaller than the smallest yard on any lot with existing primary structures on the same side of the street and in the same block. On corner lots, fences shall be allowed to the maximum height of 48 inches, subject to the joint approval of the City Administrator (a/k/a/ Enforcing Officer) and the Police Chief, who shall take into consideration sight restrictions at intersections. Height of hedges and vegetation shall also be reviewed by the City Administrator and Police Chief on all corner lots, again taking into consideration sight restrictions. If approved, hedges and vegetation on corner lots may be maintained to a maximum height of 48 inches.

67. “Yard, front” means a yard extending between side lot lines across the front of a lot. In any required front yard, with the exception of corner lots, no fence shall be permitted which materially impedes vision across such yard above the height of forty-eight (48) inches, and no hedge or other vegetation shall be permitted which impedes vision across such yard above the height of forty-eight (48) inches. In the case of corner lot front yards, fences shall be allowed to the maximum height of 48 inches, subject to the joint approval of the City Administrator (a/k/a Enforcing Officer) and the Police Chief, who shall take into consideration sight restrictions at intersections. Heights of hedges and

vegetation shall also be reviewed by the City Administrator and Police Chief on all corner lot front yards, again taking into consideration sight restrictions. If approved, hedges and vegetation on corner lot front yards may be maintained to a maximum height of 48 inches. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. In any proposed construction affecting any lot, where the front yard zoning requirements would normally require a front yard which is not in keeping with the prevailing yard patterns of primary structures on the same side of any street and located in the same City block, the administrative official charged with the enforcement of these zoning regulations may waive the requirement for the normal or required front yard and substitute therefor a special yard requirement which shall not permit any primary structure or addition to any primary structure to reduce the size of the front yard to be any smaller than the smallest front yard on any lot with existing primary structures on the same side of the street and in the same block.

68. “Yard front depth” shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

69. “Yard, rear” means extending across the rear of a lot between the side lot lines. On interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. In any proposed construction affecting any lot, where the rear yard zoning requirements would normally require a rear yard which is not in keeping with the prevailing yard patterns of primary structures on the same side of any street and located in the same City block, the administrative official charged with the enforcement of these zoning regulations may waive the requirement for the normal or required rear yard and substitute therefor a special yard requirement which shall not permit any primary structure or addition to any primary structure to reduce the size of the rear yard to be any smaller than the smallest rear yard on any lot with existing primary structures on the same side of the street and in the same block.

70. “Yard, rear depth” means a yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance there from equal to the depth of the required rear yard.

71. “Yard, side” means a yard extending from the rear line of the required front yard to the rear lot line. In the case of through lots, side

yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the full and half depth front yards have been established shall be considered to be side yards.

72. “Yard, side width” shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard of a required side yard shall be parallel to the straight line so established.

165.03 OFFICIAL ZONING MAP. The City is hereby divided into zones, or districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.[†]

165.04 REPLACEMENT OF OFFICIAL ZONING MAP. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk and bearing the seal of the City under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Code of Ordinances, City of Harlan, Iowa.”

165.05 EXCEPTIONS TO OFFICIAL ZONING MAP. There are no exceptions of the zones or districts shown on the Official Zoning Map.

165.06 RULES FOR INTERPRETING. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

[†]See *EDITOR'S NOTE* at the end of this chapter for ordinances amending the zoning map.

3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

165.07 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided:

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the City and the regulations therein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - A. To have a greater height;
 - B. To accommodate or house a greater number of families;
 - C. To occupy a greater percentage of lot areas;
 - D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces;

than herein required; or in any other manner contrary to the provisions of this chapter.

3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

4. No yard or lot existing at the time of passing of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of these regulations shall meet at least the minimum requirements established by this chapter.

165.08 DISTRICT CHANGES AND AMENDMENTS.

1. The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed, provided however, that no such action may be taken until after a public hearing in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. A notice of time and place of hearing shall be provided at least seven (7) days but not more than twenty (20) days before the date of the hearing and shall be published in a newspaper of general circulation in the City.

2. In case, however, of a written protest against a change or repeal which is filed with the Clerk and signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent (20%) or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths ($\frac{3}{4}$) of all members of the Council. The protest, if filed, must be filed before or at the public hearing on the proposed change or repeal required by subsection 1 above.

165.09 MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and morals of general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

1. **Street Frontage.** No yard or lot existing at the time of passing of the ordinance codified in this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

2. **Lots Unserved By Sewer and/or Water.** In any district, where both water supply and public sanitary sewer are not accessible, the otherwise specified lot area and width requirements shall be increased

where necessary to satisfy all applicable requirements of the City Board of Health and State Health Department concerning water supply and the disposal of sanitary wastes.

3. Number of Uses on One Lot. No lot shall contain more than one (1) principal use or primary structure except as may be authorized by this chapter.

4. Accessory Buildings in Residential Districts. A use or structure on the same lot with and of a nature customarily incidental and subordinate to, the principal use or structure and such structure shall not be less than four (4) feet from each lot line. Accessory buildings shall only be allowed on the same lot with the principal use being served, and shall be permitted only in the rear yard or side yard areas of any lot.

5. Required Yard Cannot Be Reduced or Used By Another Building.

A. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

B. No yard or lot existing at the time of passing of the ordinance codified in this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

6. Minimum Ground Floor Area For Dwellings. A one-story dwelling shall contain not less than six hundred twenty-five (625) square feet of usable ground floor area, exclusive of open porches, garages or steps. A permanent primary structure with a permanent foundation is a minimum width of twenty-five (25) feet and a minimum length of twenty-five (25) feet.

7. Traffic Visibility Across Corner Lots. On a corner lot of any residential district, there shall be no trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from across street in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.

8. Lot Size Requirements For Essential Services. Except as otherwise provided for in these regulations, none of the following public utility or public service uses shall be required to comply with the lot size

requirements and bulk regulations of the zoning district in which they are located:

- A. Electric and telephone substations and distribution systems.
- B. Gas regulator stations.
- C. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas, water, or telecommunications.
- D. Pumping stations.
- E. Radio, television and microwave transmitting or relay stations and towers.
- F. Transformer stations.
- G. Water towers or standpipes.

Notwithstanding the above exclusion, when planning new residential developments and/or location of service (utility) structures in any new construction in established residential areas, service (utility) structures are to be set in rear yard locations, utilizing rear yard easements whenever and wherever possible. Only when no rear yard service (utility) easement exists may service (utility) structures, private or public, be located any place other than in the rear easement location. Before commencing any installations of new utility construction in any established neighborhood or in any new development, Harlan Municipal Utilities will submit to the City of Harlan, for approval, a description of the construction project and drawings which show the specific location of any service (utility) structure. Construction of any project shall not commence until approval has been obtained from the City. In new developments, the developer will provide the City of Harlan and the Harlan Municipal Utilities with a final plat showing the proposed location of all service utilities and Harlan Municipal Utilities shall return a complete construction blueprint to the City of Harlan and the developer showing the specific location of any service (utility) structures.

9. Off-Street Parking. In any district spaces for off-street parking and for loading shall be provided in accordance with the provisions of Section 165.26.

10. Access and Easements. It shall be the duty of the administrative official designated to issue building permits to determine, prior to issuing such permit, that adequate easements running with the land are available for the placement of all available City utilities. Further that

there is in existence a deeded access to such property to adequately provide emergency and essential services, without obligating the City in regard to maintenance or snow removal. This shall be approved only by proper application and approval of the Board of Adjustment under such terms and conditions as they shall prescribe.

11. Garages, Motor Fuel Stations and Car Washes.

A. No building, structure or premises shall be used, erected or altered which is intended or designed to be used as a public garage, automobile repair shop, motor fuel station or car wash having an entrance or exit for vehicles in the same blockfront and within two hundred (200) feet of any school, public playground, church, hospital, public library or institution for dependents or for children, and no such entrance or exit shall be located within the same blockfront and within twenty (20) feet of any R District; nor shall any part of such public garage, automobile repair shop, motor fuel station or car wash be located within one hundred (100) feet of any building or grounds of any of the aforesaid public or institutional uses.

B. All activities incidental to the sale of gasoline or oil such as battery and tire repair, car washing or greasing shall be conducted within the building and there shall be no storage or accumulation of miscellaneous equipment, machinery or motor vehicles, or disabled or otherwise, outside of principal structure.

12. Motels or Motor Hotels.

A. No vehicular entrance to or exit from any motel or motor hotel wherever such may be within two hundred (200) feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or on another street, which the premises in question do not abut.

B. The following regulations shall be complied with:

(1) Any lot to be used for a motel or motor hotel shall be not less than twenty thousand (20,000) square feet in area and shall contain not less than one thousand two hundred (1,200) square feet of lot area per sleeping unit. All buildings and structures on the lot shall occupy in the aggregate not more than twenty-five (25) percent of the area of the lot.

(2) All areas not used for access, parking, circulation, buildings and services shall be completely landscaped and the entire site maintained in good condition.

(3) No enlargements or extensions to any motel or motor hotel shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.

13. Awnings. Where no front yard is required or other provisions of this chapter would allow for the projection of awnings over sidewalks or public rights of way, such awnings shall be located at least eight (8) feet above the ground level.

14. (Repealed by Ord. 2014-07 – June 14 Supp.)

165.10 ADDITIONAL REQUIREMENTS, EXCEPTIONS AND MODIFICATIONS. The requirements and regulations specified herein are subject to the additional requirements, exceptions, modifications and interpretations in the following:

1. Height Exceptions. Height limitations stipulated elsewhere in the regulations shall not apply:

A. To barns, silos or other farm buildings or structures on farms, provided there are not less than fifty (50) feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers masts and aerials; to parapet wall extending not more than four (4) feet above the limiting height of the building. However, if, in the opinion of the Zoning Administrator, such structures would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

B. To places of public assembly such as churches, schools and other permitted public and semi-public buildings not to exceed six (6) stories or seventy-five (75) feet, provided that for each foot by which the height of such building exceeds the maximum height otherwise permitted in the district its side and rear yards shall be increased in width or depth an additional foot over the side and rear yards.

C. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height.

- D. Where a permitted use requires greater height than specified such may be authorized by the Board of Adjustment.
2. Front Yard Exceptions and Modifications.
- A. Front yard requirements do not apply to oriel windows or balconies occupying in the aggregate not more than one-third (1/3) of the front wall, provided that these projections come entirely within planes drawn from either main corner of the front wall; to chimneys, flues, belt courses, leaders, sills, pilasters, uncovered porches, planters or similar features not over three (3) feet high above the average finished grade and distant five (5) feet from every lot line.
- B. In any district where the average depth of two (2) or more existing front yards on lots within one hundred (100) feet of the lot in question and within the same blockfront is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average of said existing front yards or the average depth on the lots immediately adjoining, or in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, the depth of a front yard on a lot in any R District shall be at least fifteen (15) feet and not exceed one hundred (100) feet.
3. Side Yard Exceptions and Modifications.
- A. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have at least width equal to that required in the more restrictive district. Where a lot in an I or B District abuts a lot in an R District, the side yard shall be increased by three (3) feet for each story that the building proposed on such lot exceeds the height limit of said R District.
- B. Side yards shall be increased in width by two (2) inches for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds forty (40) feet in any R-1 District, or fifty (50) feet in any R-2 District.
- C. Side yards may be reduced by three (3) inches from the otherwise required least width of each side yard for each foot by which a lot of record at the time of enactment of the regulations is narrower than the lot width specified for the district in which the lot is located, in the case of buildings not higher than two (2) stories and in case the owner of record does not own any adjoining property; provided, however and irrespective of the

provisions of paragraph F of this subsection, no side yard shall be narrower at any point than three (3) feet.

D. Side yards may be measured to the centerline of adjoining alleys but in no case shall a building or structure for which a side yard is required be erected within five (5) feet of such alley.

E. Structures or projections into side yards may be permitted as follows: fences, planters or walls not over six (6) feet above the average natural grade; fire escapes, three (3) feet from side lot line; oriel and balconies not more than three (3) feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall, making an interior angle or twenty-two and one-half ($22\frac{1}{2}$) degrees in the horizontal plane with the side wall. The sum of the lengths of such projection shall not exceed one-third ($\frac{1}{3}$) of the length of the wall of the main building.

F. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like, into or over a required side yard not more than one and one-half ($1\frac{1}{2}$) feet.

4. Rear Yard Exceptions and Modifications.

A. Rear yards may be reduced by three (3) inches from the required least depth for each foot by which a lot at the time of enactment of this chapter is less than one hundred (100) feet deep, in the case of a building not higher than two (2) stories, and in case the owner of record does not own adjoining property to the rear; provided, however, no required yard shall be less than ten (10) feet deep.

B. Structures or projections into rear yards may be permitted as follows: fences, planters or walls not over six (6) feet above the average natural grade. Fire escapes, six (6) feet, oriel, if above grade, and balconies not more than three (3) feet from the building, provided these projections are entirely within planes drawn from either main corner of the rear wall, making an interior angle or twenty-two and one-half ($22\frac{1}{2}$) degrees in the horizontal plane with the rear wall. The sum of the lengths of such projection shall not exceed one-half ($\frac{1}{2}$) the width of the rear wall.

C. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like, into or over a required rear yard not more than one and one-half ($1\frac{1}{2}$) feet.

165.11 FLOOD PLAIN OVERLAY DISTRICT. The FP Floodplain Overlay District is a designated area on the zoning map that is affected by a 100-year flood. It consists of the Floodway and Floodway Fringe. It is intended to be an overlay district adding building and land use regulations in addition to those of the existing zoning district; provided that, no such regulation shall allow a reduction of the standards set forth in Chapter 160, Flood Plain Regulations, of this Code of Ordinances for the Floodway or Floodway Fringe.

1. Permitted Principal Uses. Only those uses allowed in the underlying district that will not impede the free flow of floodwaters and that can meet the provisions of Chapter 160 shall be permitted, provided that all such proposed uses shall be designed to avoid negative impacts on all adjacent properties.
2. Special Exceptions. When authorized by the Board of Adjustment, any other use which will not when located, constructed and operated as proposed, be inconsistent with the purposes intended in this section or those of Chapter 160 may be approved.
3. Permitted Accessory Uses. Accessory uses and structures customarily incidental to any aforesaid permitted principal use or special exception use and located on the same lot therewith, but not including any permanent residence.
4. Parking and Loading Requirements. Parking and loading requirements shall be the same as for the underlying zoning district so far as they do not conflict with the provisions of Chapter 160.
5. Signs. Sign regulations shall be the same as for the underlying zoning district as far as they do not conflict with the provisions of Chapter 160.
6. Height Regulations. The height of principal and accessory structures shall be the same as for the underlying zoning district so far as they do not conflict with the provisions of Chapter 160.
7. Lot and Area Regulations. The lot and area requirements shall be the same as for the underlying zoning district so far as they do not conflict with the provisions of Chapter 160.

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165.12 A-1 AGRICULTURAL DISTRICTS.

1. Permitted Principal Uses.
 - A. Agriculture and agricultural buildings.
 - B. Public parks, playgrounds, recreational areas.
 - C. Essential services as defined in Section 165.02, except such uses as storage yards, warehouses, garages, or other uses customarily conducted as gainful business.
 - D. Cemeteries of ten (10) acres or more in size.
 - E. Churches, chapels, or parish houses located not less than twenty (20) feet from any side lot line in any R District.
 - F. Nursery, elementary, junior high or senior high schools, public libraries, and similar public cultural uses located not less than twenty (20) feet from any side lot line.
 - G. Sale of nursery and greenhouse products.
 - H. Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
 - I. Single-family detached dwellings on lots of ten (10) acres or more in size. Mobile homes if used as a secondary home on the lot will be allowed.
 - J. Transformer stations and booster or pressure regulating stations, without service yard or storage.
 - K. Planned Development Districts, pursuant to Section 165.25.
 - L. Public uses, subject to subsection 8 of this section.
2. Special Exception Uses.
 - A. Sanitary landfills, in accordance with County and State regulations except that no sanitary landfill shall be operated within one thousand three hundred twenty (1,320) feet from any R District.
 - B. Privately operated country clubs, golf courses, swimming clubs, riding stables, and similar recreation uses provided that any accessory building in connection therewith shall be located not less than two hundred (200) feet from any lot in an R District.
 - C. Airports and landing fields.

- D. Mining, removal and loading of sand or gravel, including equipment, buildings or structures for screening, crushing, mixing, washing, or storage located not less than one thousand three hundred twenty (1,320) feet from any R District and suitably distant or properly screened from any designated scenic highway.
3. Permitted Accessory Uses.
- A. Buildings, structures, and uses accessory to agricultural uses including roadside stands, selling produce grown on the premises, provided that such roadside stands are located not less than twenty (20) feet from a street or highway right-of-way line.
- B. Private garages or parking areas.
- C. Living quarters of persons employed on the premises.
- D. Office of a physician, dentist, lawyer, architect, engineer, clergyman, or accountant within his dwelling.
- E. Customary incidental home occupations such as handicraft, dressmaking, millinery, and preserving, but not including beauty shop, barber shop, dancing or music school with more than one pupil at one time, or similar activity carried on solely by resident occupants within their residence, subject to the following provisions; that no more than one room is used for such purposes by any resident family; that no such use shall require internal or external alterations or involve construction features or the use of mechanical equipment not customary in dwellings; that anything not produced on the premises is sold or offered for sale; that no display of goods or services pertaining to such is visible from the street or road.
- F. Off-street parking and loading as regulated by Section 165.26.
- G. Signs as regulated by Section 165.27.
4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
- A. Dwellings, Single-Family: two (2) per dwelling.
- B. Dwellings, All Other: one and one-half (1½) per dwelling.
- C. Cemeteries: one (1) for each full-time employee.

- D. Churches and Schools: one (1) per four (4) seats in largest assembly hall.
 - E. Nursery and Greenhouse: one (1) per five hundred (500) square feet of floor area plus one (1) per full-time employee.
 - F. Golf Courses: two (2) per hole plus affiliated uses.
 - G. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - H. All Other: In accordance with the determination of the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
- A. Signs not exceeding four (4) square feet in area indicating the type of plant being grown or the type of fertilizer being used.
 - B. Signs not exceeding twenty (20) square feet in area pertaining to a permitted recreation use or areas of scenic beauty, provided such signs shall be set back at least twenty (20) feet from any right of way and there shall be a distance of three hundred (300) feet between any such signs.
 - C. Signs accessory to roadside stands shall be limited to two (2) signs per lot with no sign being larger than ten (10) square feet in area and set back at least ten (10) feet from the right-of-way of a street, highway or road.
 - D. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than twelve (12) square feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - E. Small announcement or professional signs, not over six (6) square feet in area, except that an announcement sign or bulletin board not over eighteen (18) square feet in area, set back at least twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of a nonresidential nature.
 - F. One (1) temporary on-site sign, not illuminated, less than eight (8) square feet in area advertising the sales, lease or rental of the property.
6. Height Regulations. No principal structure shall exceed thirty (30) feet in height and no accessory structure shall exceed twenty (20) feet in height except as provided in Section 165.10.

7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10. Each lot shall contain a minimum area of ten (10) acres.
 - A. Minimum Lot Width: three hundred (300) feet.
 - B. Minimum Front Yard Depth: Along State and Federal roads – eighty (80) feet; along other public roads – sixty (60) feet.
 - C. Minimum Side Yard Width: thirty (30) feet.
 - D. Minimum Rear Yard Depth: one hundred (100) feet.
8. Use Limitations.
 - A. Confinement feeding of livestock shall not be permitted within one thousand three hundred twenty (1,320) feet of any lot in an R District.
 - B. Public uses shall have a minimum district size of one-fourth ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.

165.13 R-1 ONE FAMILY RESIDENCE DISTRICTS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in Section 165.02.
 - C. Planned Development Districts, pursuant to Section 165.25.
 - D. Public uses subject to subsection 8 of this section.
 - E. Planned Residential Redevelopment subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. When authorized by the Board of Adjustment, home occupations may be authorized only in principal residential structures where the applicant has clearly demonstrated that the proposed use will meet the following use limitations:
 - (1) A maximum of two hundred (200) square feet of floor area within the structure may be used for the proposed use.
 - (2) Parking: In addition to the requirements of subsection 4, Parking and Loading Requirements, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.
 - (3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.
 - (4) Signs: No sign denoting the business, its activities or products shall be allowed.
 - C. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no longer be considered a permitted accessory structure, so long as a

special exception use permit is obtained as set forth in Section 165.28A herein.

(Ord. 2007-02 – Apr. 07 Supp.)

3. Permitted Accessory Uses.
 - A. Family day care homes.
 - B. Living quarters of persons employed on the premises.
 - C. Private garages or parking areas, churches and schools.
 - D. Off-street parking and loading as regulated by Section 165.26.
 - E. Signs as regulated by Section 165.27.
4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
 - A. Dwellings, Single-Family: two (2) per dwelling.
 - B. Dwellings, All Other: one and one-half (1½) per dwelling.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Golf Courses: two (2) per hole plus affiliated uses.
 - F. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - G. All Other: in accordance with the determination of the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
 - A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - B. A sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.

- D. One (1) name plate not exceeding two (2) square feet for each dwelling.
6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed twenty (20) feet in height, except as provided in Section 165.10.
7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10. Each lot shall have a minimum lot area of seven thousand five hundred (7,500) square feet.
- A. Minimum Lot Width: seventy (70) feet.
- B. Minimum Front Yard Depth: thirty-five (35) feet.
- C. Minimum Side Yard Width: ten (10) feet.
(Ord. 2006-08 – Oct. 06 Supp.)
- D. Minimum Rear Yard Depth: thirty-five (35) feet.
8. Use Limitations.
- A. Public uses shall have a minimum district size of one quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.
- B. Residential Redevelopment Plan:
- (1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.
- (2) In approving such plan the Council may modify the requirements of this section, including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.
- (3) The Council may require additional screen, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.14 R-1A ONE FAMILY RESIDENCE DISTRICTS WITH ANIMALS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in Section 165.02.
 - C. Planned Development Districts, pursuant to Section 165.25.
 - D. Public uses subject to subsection 8 of this section.
 - E. Planned Residential Redevelopment subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. When authorized by the Board of Adjustment, home occupations may be authorized only in principal residential structures where the applicant has clearly demonstrated that the proposed use will meet the following use limitations:
 - (1) A maximum of two hundred (200) square feet of floor area within the structure may be used for the proposed use.
 - (2) Parking: In addition to the requirements of subsection 4, Parking and Loading Requirements, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.
 - (3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.
 - (4) Signs: No sign denoting the business, its activities or products shall be allowed.
 - C. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no longer be considered a permitted accessory structure, so long as a

special exception use permit is obtained as set forth in Section 165.28A herein. *(Ord. 2007-02 – Apr. 07 Supp.)*

3. Permitted Accessory Uses.
 - A. Family day care homes.
 - B. Living quarters of persons employed on the premises.
 - C. Private garages or parking areas, churches and schools.
 - D. Off-street parking and loading as regulated by Section 165.26.
 - E. Signs as regulated by Section 165.27.
4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
 - A. Dwellings, Single-Family: two (2) per dwelling.
 - B. Dwellings, All Other: one and one-half (1½) per dwelling.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Golf Courses: two (2) per hole plus affiliated uses.
 - F. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - G. All Other: in accordance with the determination of the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
 - A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - B. A sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in

connection with any of the permitted principal uses of nonresidential nature.

D. One (1) name plate not exceeding two (2) square feet for each dwelling.

6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed twenty (20) feet in height, except as provided in Section 165.10.

7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10. Each lot shall have a minimum lot area of seven thousand five hundred (7,500) square feet.

A. Minimum Lot Width: seventy (70) feet.

B. Minimum Front Yard Depth: thirty-five (35) feet.

C. Minimum Side Yard Width: ten (10) feet.

(Ord. 2006-08 – Oct. 06 Supp.)

D. Minimum Rear Yard Depth: thirty-five (35) feet.

8. Use Limitations.

A. Animals may be housed if the lot size is one (1) acre or more, and the confinement of animals will be at least one hundred forty (140) feet from the front lot line or at least seventy-five (75) feet from the nearest dwelling, whichever distance is greater. No more than two (2) animal shelters maintained to meet all local and state standards. All manure must be disposed of regularly so as not to cause an odor problem. The commercial feeding of animals for resale is forbidden. The number of animals housed shall not exceed any one of the following limits:

(1) Two (2) horses.

(2) A maximum of ten (10) rabbits or other small animals (but no chickens, ducks or other fowl), all of which must be kept housed at all times.

All R-1A properties must have a principal residential dwelling on the property before any allowed animals may be kept thereon.

B. Public uses shall have a minimum district size of one quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.

- C. Residential Redevelopment Plan:
- (1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.
 - (2) In approving such plan the Council may modify the requirements of this section, including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.
 - (3) The Council may require additional screen, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.15 R-M SINGLE FAMILY DISTRICTS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in Section 165.02.
 - C. Mobile and modular homes of less than twenty-five (25) feet of width or depth and mobile home parks provided that there is a permanent location for all utilities.
 - D. Planned Development Districts, pursuant to Section 165.25.
 - E. Public uses subject to subsection 8 of this section.
 - F. Planned Residential Redevelopment subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. When authorized by the Board of Adjustment, home occupations may be authorized in the principal or accessory structure where the applicant has clearly demonstrated that the proposed use will meet the following use limitations:
 - (1) Floor Area: The total floor area dedicated to a home occupation shall not exceed fifty percent (50%) of the floor area of the largest floor in the principal structure.
 - (2) Parking: In addition to the requirements of subsection 4, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.
 - (3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.
 - (4) Signs: One (1) sign not to exceed one (1) square foot in area and carrying only the name and occupation of any occupant of the premises.
 - C. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no

longer be considered a permitted accessory structure, so long as a special exception use permit is obtained as set forth in Section 165.28A herein. *(Ord. 2007-02 – Apr. 07 Supp.)*

3. Permitted Accessory Uses.
 - A. Family day care homes.
 - B. Living quarters of persons employed on the premises.
 - C. Private garages or parking areas, churches and schools.
 - D. Off-street parking and loading as regulated by Section 165.26.
 - E. Signs as regulated by Section 165.27.
4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
 - A. Dwellings, Single-Family: two (2) per dwelling.
 - B. Dwellings, All Other: one and one-half (1½) per dwelling.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Golf Courses: two (2) per hole plus affiliated uses.
 - F. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - G. All Other: in accordance with the determination of the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
 - A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - B. A sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in

connection with any of the permitted principal uses of nonresidential nature.

D. One (1) name plate not exceeding two (2) square feet for each dwelling.

6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed twenty (20) feet in height, except as provided in Section 165.10.

7. Lot Area, Frontage and Yard Requirements.

A. Lot Area. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10. Each lot shall have a minimum lot area of five thousand five hundred (5,500) square feet for a corner lot. The minimum depth shall be one hundred (100) feet.

(1) Minimum Lot Width:

Interior Lot – fifty (50) feet

Corner Lot – fifty-five (55) feet

(2) Minimum Front Yard Depth:

26-foot Street – thirty (30) feet

31-foot Street – twenty-five (25) feet

(3) Minimum Side Yard Width: six (6) feet, or 10% of frontage with maximum of ten (10) feet.

(4) Minimum Rear Yard Depth: thirty (30) feet.

B. Maximum Lot Coverage. Residential buildings shall not occupy more than thirty-five percent (35%) of the total lot area and there shall be no more than one principal building constructed on any one lot. (Garages and garden houses are not considered principal buildings.)

C. Corner Lots; Setbacks. The setback for all street sides of a corner lot shall be equal to the required front lot setback unless the setback has been established by existing building on the existing block and/or development. Then that will establish the setback, whichever is greater.

8. Use Limitations.

A. Streets. A street may be either twenty-six (26) feet or thirty-one (31) feet and asphalt or concrete, meeting the City specifications, with drainage channel, but lots will be assessed

major upkeep. Snow removal and minor repair will be provided by the City. If street is guttered, curbed and paved, existing City specifications will be used. On 26-foot streets width, parking will only be allowed on one side of the street.

B. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.

C. Residential Redevelopment Plan:

(1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.

(2) In approving such plan the Council may modify the requirements of this section, including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.

(3) The Council may require additional screening, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.16 R-2 ONE AND TWO FAMILY RESIDENCE DISTRICTS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in Section 165.02.
 - C. Two family dwellings.
 - D. Public parks, playgrounds and recreational areas.
 - E. Churches, chapels or parish houses located not less than twenty (20) feet from any side lot in any R District.
 - F. Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries and similar public uses located not more than twenty (20) feet from any side lot line.
 - G. Cemeteries of ten (10) acres or more.
 - H. Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
 - I. Accessory parking subject to subsection 8 of this section.
 - J. Planned Development Districts, pursuant to Section 165.25.
 - K. Public uses subject to subsection 8.
 - L. Planned Residential Redevelopment subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. Hospitals, sanitariums and nursing homes provided that any such buildings be at least fifty (50) feet from any lot in an R District. Hospitals shall be located on lots of five (5) acres or more, sanitariums on lots of ten (10) acres or more and nursing homes on lots of twenty thousand (20,000) square feet or more.
 - C. Home occupations when authorized by the Board of Adjustment. Home occupations may be authorized in the principal or accessory structure where the applicant has clearly

demonstrated that the proposed use will meet the following use limitations:

- (1) Floor Area: The total floor area dedicated to a home occupation shall not exceed fifty percent (50%) of the floor area of the largest floor in the principal structure.
- (2) Parking: In addition to the requirements of subsection 4, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.
- (3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.
- (4) Signs: One (1) sign not to exceed one (1) square foot in area and carrying only the name and occupation of any occupant of the premises.

D. Child care centers and group day care homes properly licensed with the State of Iowa; provided that owner/operator resides in the dwelling where the center is located and the operation shall not normally occupy more than fifty percent (50%) of the floor area of such dwelling.

E. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no longer be considered a permitted accessory structure, so long as a special exception use permit is obtained as set forth in Section 165.28A herein. *(Ord. 2007-02 – Apr. 07 Supp.)*

3. Permitted Accessory Uses.

- A. Family day care homes.
- B. Living quarters of persons employed on the premises.
- C. Private garages or parking areas, churches and schools.
- D. Off-street parking and loading as regulated by Section 165.26.
- E. Signs as regulated by Section 165.27.

4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

- A. Dwellings, Single-Family: two (2) per dwelling.
 - B. Dwellings, All Other: one and one-half (1½) per dwelling.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee, or one (1) for each two (2) beds.
 - F. Golf Courses: two (2) per hole plus affiliated uses.
 - G. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - H. All Other: in accordance with the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
- A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - B. A sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.
 - D. One (1) name plate not exceeding two (2) square feet for each dwelling.
6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed twenty (20) feet in height, except as provided in Section 165.10.
7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Section 165.09 and 165.10. Each one (1) family residence shall be located on a lot containing at least six thousand (6,000) square feet. Each structure containing two (2) families shall be located on a lot having an area of five thousand (5,000) square feet.

- A. Minimum Lot Width: sixty (60) feet.
 - B. Minimum Front Yard Depth: twenty-five (25) feet.
 - C. Minimum Side Yard Width: six (6) feet.
 - D. Minimum Rear Yard Depth: thirty (30) feet.
8. Use Limitations.
- A. Accessory Parking. Parking for a use in a more restricted district may be authorized where:
 - (1) The use shares a lot line or is directly across an alley from the proposed parking.
 - (2) The proposed parking provides screening and such further conditions as stipulated in Section 165.28.
 - B. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.
 - C. Residential Redevelopment Plan:
 - (1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.
 - (2) In approving such plan, the Council may modify the requirements of this section, including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.
 - (3) The Council may require additional screening, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.17 R-3 MEDIUM DENSITY RESIDENTIAL DISTRICTS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in Section 165.02.
 - C. Two (2) family dwellings.
 - D. Public parks, playgrounds and recreational areas.
 - E. Churches, chapels or parish houses located not less than twenty (20) feet from any side lot in any R District.
 - F. Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries and similar public uses located not more than twenty (20) feet from any side lot line.
 - G. Cemeteries of ten (10) acres or more.
 - H. Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
 - I. Three (3) to six (6) family dwellings.
 - J. Planned Development Districts, pursuant to Section 165.25.
 - K. Planned Residential Redevelopment subject to subsection 8 of this section.
 - L. Accessory parking subject to subsection 8.
 - M. Public uses subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. Hospitals, sanitariums and nursing homes provided that any such buildings be at least fifty (50) feet from any lot in an R District. Hospitals shall be located on lots of five (5) acres or more, sanitariums on lots of ten (10) acres or more and nursing homes on lots of twenty thousand (20,000) square feet or more.
 - C. Residence development projects exempt from district height regulations.

D. Home occupations when authorized by the Board of Adjustment. Home occupations may be authorized in the principal or accessory structure where the applicant has clearly demonstrated that the proposed use will meet the following use limitations:

(1) Floor Area: The total floor area dedicated to a home occupation shall not exceed fifty percent (50%) of the floor area of the largest floor in the principal structure.

(2) Parking: In addition to the requirements of subsection 4, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.

(3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.

(4) Signs: One (1) sign not to exceed four (4) square feet in area and carrying only the name and occupation of any occupant of the premises.

E. Child care centers and group day care homes properly licensed with the State of Iowa; provided that owner/operator resides in the dwelling where the center is located and the operation shall not normally occupy more than fifty percent (50%) of the floor area of such dwelling.

F. Kindergartens, day nurseries or nursery schools.

G. Motels or motor hotels on lots abutting on State or Federal highways, subject to the applicable provisions of Section 165.09(12).

H. Offices of civic, religious or charitable organizations and professional offices of architects, engineers, lawyers and doctors abutting State or Federal highways.

I. Real estate, insurance, financial, management and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premise where located on lots abutting State or Federal highways.

J. Bed and breakfast residences, as defined in Section 165.02, provided:

(1) The rooms utilized by guests and occupants of the premises shall be in the principal residential structures. Separate structures, accessory buildings and garages are not permitted to be used as living units or sleeping rooms.

(2) The use by a guest shall be temporary only.

(3) Each room that is designated for guest occupancy must be provided with an approved smoke detector.

(4) The principal residence may provide facilities for group meetings, special occasion receptions or parties indoors and restaurant services for the general public, serving not more than sixteen (16) patrons at one time.

(5) The premises must be licensed by the State agency charged with the licensing of restaurants and hotels and must otherwise comply with all applicable State codes.

(6) Parking. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. A parking diagram must be approved by the Commission. No parking stall shall eliminate sidewalk access.

(7) Signs. One (1) non-illuminated identification sign of not more than three (3) square feet in sign area shall be permitted. This building sign shall be attached to and parallel with the front wall of the building. Any other signs must be approved by the Commission.

K. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no longer be considered a permitted accessory structure, so long as a special exception use permit is obtained as set forth in Section 165.28A herein. *(Ord. 2007-02 – Apr. 07 Supp.)*

3. Permitted Accessory Uses.

A. Family day care homes.

B. Living quarters of persons employed on the premises.

C. Private garages or parking areas, churches and schools.

D. Off-street parking and loading as regulated by Section 165.26.

E. Signs as regulated by Section 165.27.

4. Parking And Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

- A. Dwellings, Single-Family: two (2) per dwelling.
- B. Dwellings, Three to Six-Family: one and one-half (1½) per dwelling.
- C. Dwellings, All Other: one and one-half (1½) per dwelling.
- D. Cemeteries: one (1) for each full-time employee.
- E. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
- F. Banks, Businesses and Professional Offices: one (1) for each two hundred (200) square feet of floor area.
- G. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.
- H. Golf Courses: two (2) per hole plus affiliated uses.
- I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
- J. All Other: in accordance with the Zoning Administrator.

5. Signs. In addition to the requirements of Section 165.27:

- A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
- B. A sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
- C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.
- D. One (1) name plate not exceeding two (2) square feet for each residential structure.

- E. Wall signs flat against a building, appertaining to any of the permitted principal uses of a nonresidential character.
6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height, and no accessory structure shall exceed twenty (20) feet in height, except as provided in Section 165.10.
7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Section 165.09 and 165.10. Each one (1) family residence shall be located on a lot containing at least six thousand (6,000) square feet. Each two (2), three (3) and four (4) family structure shall be located on a lot having an area of three thousand (3,000) square feet for each family to be housed on the structure, and each five (5) and six (6) family structure shall be located on a lot having an area of two thousand five hundred (2,500) square feet for each family to be housed on the structure.
- A. Minimum Lot Width: sixty (60) feet.
- B. Minimum Front Yard Depth: twenty-five (25) feet.
- C. Minimum Side Yard Width: six (6) feet.
- D. Minimum Rear Yard Depth: thirty (30) feet.
8. Use Limitations.
- A. Play areas for kindergartens, day nurseries or nursery schools shall be suitably fenced and screened.
- B. Accessory Parking. Parking for a use in a more restricted district may be authorized where:
- (1) The use shares a lot line or is directly across an alley from the proposed parking.
- (2) The proposed parking provides screening and such further conditions as stipulated in Section 165.26.
- C. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.
- D. Residential Redevelopment Plan:
- (1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.

(2) In approving such plan the Council may modify the requirements of this section, including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.

(3) The Council may require additional screen, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.18 R-4 MULTI-FAMILY RESIDENCE DISTRICTS.

1. Permitted Principal Uses.
 - A. One-family detached dwellings.
 - B. Essential services as defined in 165.02.
 - C. Two (2) family dwellings.
 - D. Public parks, playgrounds and recreational areas.
 - E. Churches, chapels or parish houses located not less than twenty (20) feet from any side lot in any R District.
 - F. Any building or structure occupied or used for nursery, elementary, junior high or high schools, public libraries and similar public uses located not more than twenty (20) feet from any side lot line.
 - G. Cemeteries of ten (10) acres or more.
 - H. Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
 - I. Dwellings for any number of families.
 - J. Townhouses and rowhouses.
 - K. Boarding and lodging houses.
 - L. Planned Development Districts, pursuant to Section 165.25.
 - M. Planned Residential Redevelopment subject to subsection 8 of this section.
 - N. Accessory parking subject to subsection 8.
 - O. Public uses subject to subsection 8.
2. Special Exception Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. Office of civic, religious or charitable organizations and financial or insurance institutions conducting their activities primarily by mail and not handling merchandise or rendering services on the premises.

C. Physicians and dentists; offices and private clinics for human care, professional offices of architects, engineers, lawyers and the like; offices devoted to real estate, insurance, management and similar enterprises when conducting their activities primarily by mail or telephone and not displaying or handling merchandise on the premises.

D. Mobile home parks subject to the following conditions:

(1) The mobile home park shall be located on a parcel of ground at least five (5) acres in size and each boundary line of the park shall be at least one hundred (100) feet from any residential structure located outside the park unless separated therefrom by a natural or artificial barrier.

(2) The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

(3) Each mobile home space shall be large enough to provide a distance of ten (10) feet between any residence unit or structure on the space and the lot line, a front yard of fifteen (15) feet and a rear yard of ten (10) feet.

(4) All mobile home spaces shall abut upon a driveway of not less than twenty (20) feet in width which shall have unobstructed access to a public street.

(5) Walkways not less than two (2) feet wide shall be provided to service buildings.

(6) All driveways and walkways in the park shall be hard-surfaced and lighted at night.

(7) Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed.

(8) An electrical outlet supplying at least one hundred ten (110) volts shall be provided to each trailer space.

(9) Adequate sanitary facilities and supply of pure water shall be provided to each trailer space.

(10) Each park shall comply with the regulations set forth by competent authority, and the Iowa State Department of Health.

E. When authorized by the Board of Adjustment, home occupations may be authorized in the principal or accessory structure where the applicant has clearly demonstrated that the proposed use will meet the following use limitations:

(1) Floor Area: The total floor area dedicated to a home occupation shall not exceed fifty percent (50%) of the floor area of the largest floor in the principal structure.

(2) Parking: In addition to the requirements of subsection 4, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.

(3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.

(4) Signs: One (1) sign not to exceed one (1) square foot in area and carrying only the name and occupation of any occupant of the premises.

F. Private, non-commercial, non-business storage facilities which were once a permitted accessory use type structure (garage or storage shed) but because of a subsequent conveyance could no longer be considered a permitted accessory structure, so long as a special exception use permit is obtained as set forth in Section 165.28A herein. *(Ord. 2007-02 – Apr. 07 Supp.)*

3. Permitted Accessory Uses.

A. Family day care homes.

B. Living quarters of persons employed on the premises.

C. Private garages or parking areas, churches and schools.

D. Off-street parking and loading as regulated by Section 165.26.

E. Signs as regulated by Section 165.27.

4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

A. Dwellings, Single-Family: two (2) per dwelling.

- B. Dwellings, Three to Six-Family: one and one-half (1½) per dwelling.
 - C. Dwellings, All Other: one and one-half (1½) per dwelling.
 - D. Cemeteries: one (1) for each full-time employee.
 - E. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - F. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.
 - G. Medical or Dental Clinics: one (1) per two hundred (200) square feet of floor area; one (1) per doctor and full-time employee.
 - H. Golf Courses: two (2) per hole plus affiliated uses.
 - I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - J. All Other: in accordance with the determination of the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
- A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road and non-illuminated.
 - B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.
 - D. One (1) name plate not exceeding two (2) square feet for each residential structure.
 - E. Wall signs flat against the building, appertaining to any of the permitted principal uses of a nonresidential character.
6. Height Regulations. No principal structure shall exceed seventy-five (75) feet in height at the required front, side and rear yard lines,

other than as provided in Section 165.10, except that one (1) foot may be added to the height permitted for each one (1) foot that the building is set back from the required yard lines and that one (1) foot be added to the minimum lot width for each one (1) foot that the building exceeds seventy-five (75) feet in height.

7. Lot Area, Frontage and Yard Requirements.

A. Lot area, frontages and yards shall be as follows:

- (1) Lot Width: twenty-four (24) feet per unit plus required side yard depth.
- (2) Minimum Front Yard Depth: twenty-five (25) feet.
- (3) Minimum Side Yard Depth: The only side yards will be those at the end of each building containing three (3) or more units. The minimum side yard of the side of the building adjoining any alley shall be six (6) feet; adjoining the side street, not less than the minimum of the front yard required for residences facing the side streets. There shall be minimum lot area for each unit (townhouse or rowhouse) of three thousand (3,000) square feet.
- (4) Minimum Back Yard Depth: thirty (30) feet.
- (5) Any accessory structure shall be no less than twenty (20) feet from an R-3 District.

B. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Section 165.09 and 165.10. Each structure shall be located on a lot containing at least seven thousand (7,000) square feet. Each structure containing more than one (1) family shall be located on a lot having an area of four thousand (4,000) square feet for each family.

STORIES:	1	2	3	4	5	6
Min. lot width	50 feet	52 feet	55 feet	65 feet	75 feet	85 feet
Min. front yard depth	30 feet	32 feet	35 feet	40 feet	45 feet	50 feet
Min. side yard widths						
Least width	6 feet	8 feet	10 feet	12 feet	14 feet	16 feet
Sum least widths	12 feet	17 feet	22 feet	27 feet	33 feet	40 feet
Min. rear yard depth	30 feet	30 feet	35 feet	40 feet	45 feet	50 feet
For over 6 stories, see subsection 6 of this section for yard and width requirements.						

8. Use Limitations.
 - A. Play areas for kindergartens, day nurseries or nursery schools shall be suitably fenced and screened.
 - B. Accessory Parking. Parking for a use in a more restricted district may be authorized where:
 - (1) The use shares a lot line or is directly across an alley from the proposed parking.
 - (2) The proposed parking provides screening and such further conditions as stipulated in Section 165.26.
 - C. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.
 - D. Residential Redevelopment Plan:
 - (1) The Commission may recommend and the Council may approve a residential redevelopment plan consistent with the requirements of Section 165.25, Planned Residential Redevelopment Review Process.
 - (2) In approving such plan the Council may modify the requirements of this section including lot area, yard requirements and building heights in order to promote the health, safety and welfare of the community and to encourage development of affordable, safe and decent housing.
 - (3) The Council may require additional screen, setbacks or other measures to avoid negative impacts on adjacent property or development.

165.19 CONDOMINIUMS.

1. Permitted Principal Uses.
 - A. Subject to review by the Planning and Zoning Commission and the limitations established by the City Council, condominiums as defined by 165.02 may be approved.
 - B. Planned Development District, pursuant to Section 165.25.
2. Special Exceptions Uses.
 - A. Privately operated country clubs, golf courses, swimming clubs and similar recreation uses provided that any principal building in connection therewith shall be located no less than two hundred (200) feet from any lot in an R District.
 - B. Hospitals, sanitariums and nursing homes provided that any such buildings be at least fifty (50) feet from any lot in an R District. Hospitals shall be located on lots of five (5) acres or more, sanitariums on lots of ten (10) acres or more and nursing homes on lots of twenty thousand (20,000) square feet or more.
 - C. When authorized by Board of Adjustment, home occupations may be authorized only in principal residential structures where the applicant has clearly demonstrated that the proposed use will meet the following limitations:
 - (1) A maximum of two hundred (200) square feet of floor area within the structure may be used for the proposed use.
 - (2) Parking. In addition to the requirements of subsection 4, Parking and Loading Requirements, there shall be a maximum of two (2) parking spaces. No City street or right-of-way may be used to meet this requirement.
 - (3) All activities must be conducted in an enclosed structure with no permanent or temporary outdoor storage materials associated with the proposed use.
 - (4) Signs. No sign denoting the business, its activities or products shall be allowed.
 - D. Child care centers and group day care homes properly licensed with the State of Iowa; provided that owner/operator resides in the dwelling where the center is located and the

operation shall not normally occupy more than fifty percent (50%) of the floor area of such dwelling.

3. Permitted Accessory Uses.
 - A. Family day care homes.
 - B. Living quarters or persons employed on the premises.
 - C. Private garages or parking areas, churches and schools.
 - D. Off-street parking and loading as regulated by Section 165.26.
 - E. Signs as regulated by Section 165.27.
4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
 - A. Dwellings, Single-Family: two (2) per dwelling.
 - B. Dwellings, All Other: one and one-half (1½) per dwelling.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Golf Courses: two (2) per hole plus affiliated uses.
 - F. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - G. All Other: in accordance with the Zoning Administrator.
5. Signs. In addition to the requirements of 165.27:
 - A. Real estate signs of a temporary nature, not exceeding one (1) on each public street frontage per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.
 - B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding three (3) square feet in area except as may be authorized by the Board of Adjustment.
 - C. Small announcement or professional signs, not over three (3) square feet in area except for churches, set back twenty (20) feet from any highway, street or road, may be erected in

connection with any of the permitted principal uses of nonresidential nature.

D. One (1) name plate not exceeding two (2) square feet for each dwelling unit.

6. Height Regulations. No principal structure shall exceed thirty-five (35) feet in height at the required front, side and rear yard lines.

7. Lot Area, Frontage and Yard Requirements. The following requirements for front, rear and side yards shall apply to the whole structure, and shall not be required for each individual unit. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10. There shall be a lot area of three thousand (3,000) square feet for each family to be housed in the structure.

STORIES:	1	2	3
Front Yard Depth	30 feet	32 feet	35 feet
Side Yard Depth	10 feet	12 feet	15 feet
Rear Yard Depth	30 feet	30 feet	35 feet

No accessory structure shall be less than twenty (20) feet from an R-3 District.

8. Use Limitations. Prior to application for a building permit there must first be submitted to the Commission and Council all items listed in paragraphs A, B and C of this subsection as the preliminary stage. Where this preliminary stage is approved, items listed in paragraphs D, E, F and G may then be submitted to the Commission and Council for their review and consideration.

A. Complete details of the proposed site development including location of building, utility easements, driveways, parking spaces, dimensions of the lot, lot area and yard dimensions.

B. Complete landscaping plans including species and sizes of trees and shrubs proposed.

C. Complete plans for all proposed sidewalks including the sidewalks to service parking, recreation and service areas within the proposed development; provisions for trash, garbage, and general storage shall be included; all storage shall be enclosed with walls and roof.

- D. Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area.
- E. Complete structural, electrical and mechanical plans for the proposed buildings.
- F. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
- G. Homeowners' Association Agreement, which shall meet all Federal, State and City ordinances and regulations.

The Commission and Council may designate conditions or guarantees in connection therewith to ensure that such project will constitute a residential environment of a sustained desirability and stability and will be consistent with the intent and purpose of the regulations to promote public health, safety, and general welfare.

165.20 B-1 RETAIL BUSINESS DISTRICTS.

1. Permitted Principal Uses.
 - A. Any retail business establishment occupying a completely enclosed building, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drugstore, fabric shop, floor covering store, florist shop, furniture store including reupholstery, gift shop, grocery store, haberdashery, or women's ready-to-wear shop, hardware or paint store, hobby shop, pet shop, jewelry store, meat market, shoe store, and variety store.
 - B. Any service establishment, such as a bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pickup station, funeral home, theatre, tattoo parlor, day spa, fitness gym, and self-service laundry.
 - C. Bus terminal.
 - D. Business or trade school.
 - E. Commercial parking lot.
 - F. Department store.
 - G. Essential services as defined in Section 165.02.
 - H. Hotels and motor hotels, including recreational vehicle hook-ups.
 - I. Meeting hall, club and fraternal organization.
 - J. Music and dancing studio.
 - K. Public parking lot, customer and other accessory parking area.
 - L. Planned Development District, pursuant to Section 165.25.
 - M. The following uses when occupying a completely enclosed building located at least one hundred (100) feet from any R District:
 - (1) Dance hall, bar or cocktail lounge, nightclub and similar enterprise.
 - (2) Printing, publishing, engraving or lithographing shop.

- (3) Laundry and dry cleaning shop.
 - N. Residential uses subject to subsection 7 of this section.
 - O. Public uses subject to subsection 7.
 - P. Museums.
2. Permitted Accessory Uses.
- A. Other accessory uses customarily incidental to the above permitted use.
 - B. Parking and loading.
 - C. Signs, as permitted by Section 165.27.
 - D. A caretaker's apartment.
 - E. Outdoor Dining will be permitted adjacent to licensed eating establishments with the following limitations:
 - (1) There shall be no unreasonable hazard to pedestrians, diners, or vehicular traffic. The Outdoor Dining Area shall be kept in a clean and tidy condition, shall not be used for food storage or preparation, or result in the discharge of liquid wastes on the sidewalk or street.
 - (2) The sidewalk shall be wide enough to accommodate the Outdoor Dining Area while still maintaining a clear pathway of travel of no less than four (4) feet to the street side of the sidewalk for all pedestrians, including those who use wheelchairs or mobility aids.
 - (3) The ground surface of the outdoor dining area shall be suitably constructed and sufficiently level to accommodate outdoor dining furniture and enable the area to be used safely and without inconvenience to pedestrians or vehicles.
 - (4) The outdoor dining area shall not extend past the building line at a street intersection.
 - (5) Access shall not be inhibited to public utilities, such as fire hydrants, electricity underground cables, water service pipes, and traffic signs.
 - (6) Fire escape access shall not be impeded.
 - (7) Application for an Outdoor Dining permit shall be obtained from the City of Harlan and no fee will be assessed.
(*Ord. 2014-06 – June 14 Supp.*)
3. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

- A. Barber Shops/Beauty Shops: one (1) for each chair plus one (1) for each employee or one hundred (100) square feet.
- B. Massage/Tanning Salons: one (1) for each chair, massage table or tanning bed plus one (1) for each employee or one hundred (100) square feet.
- C. Cemeteries: one (1) for each full-time employee.
- D. Schools: one (1) per four (4) seats in the largest assembly hall.
- E. Laundries, Coin-Operated and Dry Cleaners: one (1) per three (3) washers/cleaning machines plus one (1) for each two (2) employees on maximum shift.
- F. Residential: where permitted, one (1) space per unit within three hundred (300) feet.
- G. Golf Courses: two (2) per hole plus affiliated uses.
- H. Motels or Motor Hotels: one (1) for each unit plus one (1) for each employee on maximum shift and one (1) for each recreational vehicle hook-up.
- I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
- J. Banks, Business and Professional Offices: one (1) for each two hundred (200) square feet of floor area.
- K. Convenience Stores (Drug, Grocery, Hardware and Similar Stores): one (1) for each three hundred (300) square feet of floor area devoted to sales plus one (1) for each full-time employee.
- L. Dance Hall and Assembly Halls Without Fixed Seats: one (1) for each fifty (50) square feet of floor area used for assembly or dancing.
- M. Funeral Homes, Mortuaries: six (6) per chapel room or parlor and one (1) per fifty (50) square feet of rooms used for services, whichever is greater and/or seventy-five (75) square feet of the total.
- N. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.
- O. Medical and Dental Clinics: one (1) for each two hundred (200) square feet of floor area plus one (1) for each full-time employee and one (1) for each doctor.
- P. Motels or Motor Hotels: one (1) for each two hundred (200) square feet of floor area plus one (1) for each two (2) employees on maximum shift.
- Q. Coin-Operated Laundries and/or Dry Cleaning Establishments: one (1) for each three (3) washers and/or cleaning machine plus one (1) for

each two (2) employees on maximum shift or one hundred (100) square feet.

R. Shoppers Goods (Appliance, Household Equipment, Furniture and Similar Stores): one (1) for each five hundred (500) square feet of floor area plus one (1) for each full-time employee or one hundred (100) square feet.

S. Taverns or Bars: one (1) for each four (4) seats.

T. All Other: in accordance with the Zoning Administrator.

4. Signs. In addition to the requirements of Section 165.27:

A. Real estate signs of a temporary nature, not exceeding two (2) in number per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.

B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding thirty (30) square feet in area except as may be authorized by the Board of Adjustment.

(Ord. 2006-08 – Oct. 06 Supp.)

C. Small announcement or professional signs, not over forty (40) square feet in area, except as may be authorized by the Board of Adjustment, except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of non-residential nature.

(Ord. 2006-08 – Oct. 06 Supp.)

D. Wall signs flat against the building, not exceeding thirty (30) square feet in area, except as may be authorized by the Board of Adjustment, and pertaining to any of the permitted uses therein.

(Ord. 2006-08 – Oct. 06 Supp.)

E. The total area of all signs permitted on any one lot shall not exceed four (4) times the number of linear feet of the lot abutting public streets.

5. Height Regulations. No principal structure shall exceed forty-five (45) feet in height, except as provided in Section 165.10.

6. Lot and Area Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10:

A. Minimum Front Yard Depth: none; except where adjoining any R District, then one-half (½) that required in the district.

B. Minimum Side Yard Width: none; except where adjoining any R District, then same as the least width required in that R District.

C. Minimum Rear Yard Depth: ten (10) feet; except where adjoining any R District, then same as R District.

7. Use Limitations.

A. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.

B. Residential uses are allowed where:

(1) The dwelling (residential use) is located above the first (ground) floor of a permitted nonresidential (business) use.

(2) The dwelling (residential use) is located below the first (ground) floor of a permitted nonresidential (business) use.

C. Residential uses are allowed with Board of Adjustment approval if:

(1) The dwelling (residential use) is located on the first (ground) floor of a permitted nonresidential use and does not occupy more than 50% of the space for residential use on that level. The business use shall occupy the street side (front) portion of the first (ground) floor.

(2) The first (ground) floor shall not be used exclusively as an accessory use for the residential use of the structure or be used exclusively as a parking space or garage.

165.21 B-2 GENERAL BUSINESS DISTRICTS

1. Permitted Principal Uses.
 - A. Any retail business establishment occupying a completely enclosed building, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drugstore, fabric shop, floor covering store, florist shop, furniture store including reupholstery, gift shop, grocery store, haberdashery, or women's ready-to-wear shop, hardware or paint store, hobby shop, pet shop, jewelry store, meat market, shoe store, and variety store.
 - B. Any service establishment, such as a bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pickup station, funeral home, theatre, tattoo parlor, day spa, fitness gym, and self-service laundry.
 - C. Bus terminal.
 - D. Business or trade school.
 - E. Commercial parking lot.
 - F. Department store.
 - G. Essential services as defined in Section 165.02.
 - H. Hotels and motor hotels, including recreational vehicle hook-ups.
 - I. Meeting hall, club and fraternal organization.
 - J. Music and dancing studio.
 - K. Planned Development District, pursuant to Section 165.25.
 - L. The following uses when occupying a completely enclosed building located at least one hundred (100) feet from any R District:
 - (1) Dance hall, bar or cocktail lounge, nightclub and similar enterprise.
 - (2) Printing, publishing, engraving or lithographing shop.
 - (3) Laundry and dry cleaning shop.

- (4) Automobile, truck, trailer, and garden and farm implement establishments for display, hire, sales, including sales lots.
 - (5) Bottling of soft drinks or milk, or distribution stations.
 - (6) Bowling alley, pool hall or billiard parlor, dance hall or cocktail lounge, nightclub and similar enterprises.
 - (7) Carpenter shop, electrical, heating, ventilating, or plumbing shop, furniture upholstering shop, printing, publishing, engraving, or lithographic plant, laundry and dry cleaning shop, sign painting shop, and similar establishments.
- M. Public parking lot, customer and other accessory parking area, subject to the applicable provisions of 165.26.
 - N. Building material sales yards, if enclosed on all sides by an eight (8) foot high solid fence.
 - O. Wholesale business and warehouses.
 - P. Museums.
 - Q. Motor fuel stations subject to the conditions stipulated in Section 165.09.
 - R. Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least one hundred (100) feet from any lot in any R District.
 - S. Commercial baseball field, bathhouse, or boathouse, golf driving range, skating rink, swimming pool, or similar open air recreational uses and facilities, but not within two hundred (200) feet of any R District.
 - T. Public uses subject to subsection 8 of this section.
 - U. Residential uses subject to subsection 8 of this section.
2. Special Exception Uses.
- A. Residential dwellings when authorized by the Board of Adjustment. Residential dwellings may be authorized notwithstanding the failure of the structure to meet the “grandfathering” provisions of Section 165.28 of this Zoning Ordinance, where the applicant has clearly demonstrated the proposed use will meet all use limitations imposed by the Board of Adjustment including, but not limited to, the following:

- (1) The proposed residential structure must already be in existence at the time application is made for the special exception.
 - (2) The structure proposed for residential use must meet all applicable plumbing, electrical and structure codes.
 - (3) The structure proposed for residential use must otherwise meet all other zoning requirements and regulations.
3. Permitted Accessory Uses.
- A. Other accessory uses customarily incidental to the above permitted uses.
 - B. Parking and loading.
 - C. Signs, as permitted by Section 165.27.
 - D. A caretaker's apartment.
 - E. Outdoor Dining will be permitted adjacent to licensed eating establishments with the following limitations:
 - (1) There shall be no unreasonable hazard to pedestrians, diners, or vehicular traffic. The Outdoor Dining Area shall be kept in a clean and tidy condition, shall not be used for food storage or preparation, or result in the discharge of liquid wastes on the sidewalk or street.
 - (2) The sidewalk shall be wide enough to accommodate the outdoor dining area while still maintaining a clear pathway of travel of no less than four (4) feet to the street side of the sidewalk for all pedestrians, including those who use wheelchairs or mobility aids.
 - (3) The ground surface of the outdoor dining area shall be suitably constructed and sufficiently level to accommodate outdoor dining furniture and enable the area to be used safely and without inconvenience to pedestrians or vehicles.
 - (4) The outdoor dining area shall not extend past the building line at a street intersection.
 - (5) Access shall not be inhibited to public utilities, such as fire hydrants, electricity underground cables, water service pipes, and traffic signs.
 - (6) Fire escape access shall not be impeded.
 - (7) Application for an Outdoor Dining permit shall be obtained from the City of Harlan and no fee will be assessed.
(Ord. 2014-06 – June 14 Supp.)

4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

- A. Barber Shops/Beauty Shops: one (1) for each chair plus one (1) for each employee or one hundred (100) square feet.
- B. Massage/Tanning Salons: one (1) for each chair, massage table or tanning bed plus one (1) for each employee or one hundred (100) square feet.
- C. Cemeteries: one (1) for each full-time employee.
- D. Schools: one (1) per four (4) seats in the largest assembly hall.
- E. Laundries, Coin-Operated and Dry Cleaners: one (1) per three (3) washers/cleaning machines plus one (1) for each two (2) employees on maximum shift.
- F. Residential: where permitted, one (1) space for each unit within three hundred (300) feet of the unit.
- G. Golf Courses: two (2) per hole plus affiliated uses.
- H. Motels or Motor Hotels: one (1) for each unit plus one (1) for each employee on maximum shift and one (1) for each recreational vehicle hook-up.
- I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
- J. Automobile or Machinery Sales: one (1) for each one thousand (1,000) square feet of floor area plus one (1) for each full-time employee.
- K. Banks, Businesses and Professional Offices: one (1) for each two hundred (200) square feet of floor area.
- L. Bowling Alleys: six (6) for each alley.
- M. Convenience Stores (Drug, Grocery, Hardware and Similar Stores): one (1) for each three hundred (300) square feet of floor area devoted to sales plus one (1) for each full-time employee.
- N. Dance Hall and Assembly Halls Without Fixed Seats: one (1) for each fifty (50) square feet of floor area used for assembly or dancing.
- O. Restaurants: at least one (1) parking space for every three (3) patrons based upon the establishment's maximum seating capacity. Restaurants with a drive-through pickup window shall, in addition to providing the required parking spaces, provide a separate, distinct, and clearly marked drive-through lane for motor vehicles, which is accessible both from and to public streets or alleys without interfering with patrons using the required parking spaces.

- P. Funeral Homes, Mortuaries: six (6) per chapel room or parlor and one (1) per fifty (50) square feet of rooms used for services, whichever is greater and/or seventy-five (75) square feet of the total.
- Q. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.
- R. Medical or Dental Clinics: one (1) for each two hundred (200) square feet of floor area plus one (1) for each full-time employee and one (1) for each doctor.
- S. Motels or Motor Hotels: one (1) for each unit, plus one (1) for each two (2) employees on maximum shift.
- T. Motor Fuel Stations: one (1) for each employee on duty plus two (2) for each service bay or three hundred (300) square feet.
- U. Coin-Operated Laundries and/or Dry Cleaning Establishments: one (1) for each three (3) washers and/or cleaning machine plus one (1) for each two (2) employees on maximum shift or one hundred (100) square feet.
- V. Shoppers Goods (Appliance, Household Equipment, Furniture and Similar Stores): one (1) for each five hundred (500) square feet of floor area plus one (1) for each full-time employee or one hundred (100) square feet.
- W. Taverns or Bars: one (1) for each four (4) seats.
- X. Wholesale Establishments: one (1) for each four (4) employees on maximum shift or three hundred (300) square feet.
- Y. All Other: in accordance with the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
- A. Real estate signs of a temporary nature, not exceeding two (2) in number per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.
- B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding thirty (30) square feet in area except as may be authorized by the Board of Adjustment. *(Ord. 2006-08 – Oct. 06 Supp.)*
- C. Small announcement or professional signs, not over forty (40) square feet in area, except as may be authorized by the Board of Adjustment, except for churches, set back twenty (20) feet

from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature.

(Ord. 2006-08 – Oct. 06 Supp.)

D. The total area of all signs permitted on any one lot shall not exceed four (4) times the number of linear feet of the lot abutting public streets.

E. Wall signs flat against the building, not exceeding thirty (30) square feet in area, except as may be authorized by the Board of Adjustment, and pertaining to any of the permitted uses therein.

(Ord. 2006-08 – Oct. 06 Supp.)

F. Billboards, signboards and pole signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions:

(1) No billboard, signboard, pole sign or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.

(2) No billboard, signboard or pole sign facing shall exceed two hundred forty (240) square feet in area.

(3) No billboard, signboard, pole sign or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

G. Elevated signs at least five (5) feet from any lot line.

6. Height Regulations. No principal structure shall exceed forty-five (45) feet in height, except as provided in Section 165.10.

7. Lot and Area Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10.

A. Minimum Front Yard Depth: Municipal streets – ten (10) feet; County, State and Federal roads – thirty (30) feet; except where adjoining any R District, then one-half (½) that required in the district.

B. Minimum Side Yard Width: None; except where adjoining any R District, then same as the least width required in that R District.

C. Minimum Rear Yard Depth: Ten (10) feet; except where adjoining an R District, then same as R District.

8. Use Limitations.
- A. Any use of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offensive in a B-2 District because of hazardous materials, odor, sound, dust or smoke.
- B. Public uses shall have a minimum district size of one quarter (¼) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.
- C. Residential uses are allowed where:
- (1) The dwelling (residential use) is located above the first (ground) floor of a permitted nonresidential (business) use.
 - (2) The dwelling (residential use) is located below the first (ground) floor of a permitted nonresidential (business) use.
- D. Residential uses are allowed with Board of Adjustment approval if:
- (1) The dwelling (residential use) is located on the first (ground) floor of a permitted nonresidential use and does not occupy more than 50% of the space for residential use on that level. The business use shall occupy the street side (front) portion of the first (ground) floor.
 - (2) The first (ground) floor shall not be used exclusively as an accessory use for the residential use of the structure or be used exclusively as a parking space or garage.

165.22 B-3 HIGHWAY BUSINESS DISTRICTS.

1. Permitted Principal Uses.
 - A. Any retail business establishment occupying a completely enclosed building, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drugstore, fabric shop, floor covering store, florist shop, furniture store including reupholstery, gift shop, grocery store, haberdashery, or women's ready-to-wear shop, hardware or paint store, hobby shop, pet shop, jewelry store, meat market, shoe store, and variety store.
 - B. Any service establishment, such as a bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pickup station, funeral home, theatre, tattoo parlor, day spa, fitness gym, and self-service laundry.
 - C. Bus terminal.
 - D. Business or trade school.
 - E. Commercial parking lot.
 - F. Department store.
 - G. Essential services as defined in Section 165.02.
 - H. Hotels and motor hotels, including recreational vehicle hook-ups.
 - I. Meeting hall, club and fraternal organization.
 - J. Music and dancing studio.
 - K. Planned Development District, pursuant to Section 125.25.
 - L. The following uses when occupying a completely enclosed building located at least one hundred (100) feet from any R District:
 - (1) Dance hall, bar or cocktail lounge, nightclub and similar enterprise.
 - (2) Printing, publishing, engraving or lithographing shop.
 - (3) Laundry and dry cleaning shop.

- (4) Automobile, truck, trailer, and garden and farm implement establishments for display, hire, sales, including sales lots.
 - (5) Bottling of soft drinks or milk, or distribution stations.
 - (6) Bowling alley, pool hall or billiard parlor, dance hall or cocktail lounge, nightclub and similar enterprises.
 - (7) Carpenter shop, electrical, heating, ventilating, or plumbing shop, furniture upholstery shop, printing, publishing, engraving, or lithographic plant, laundry and dry cleaning shop, sign painting shop, and similar establishments.
- M. Public parking lot, customer and other accessory parking area, subject to the applicable provisions of Section 165.26.
 - N. Building material sales yards, if enclosed on all sides by an eight (8) foot high solid fence.
 - O. Wholesale business and warehouses.
 - P. Museums.
 - Q. Motor fuel stations subject to the conditions stipulated in Section 165.09.
 - R. Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least one hundred (100) feet from any lot in any R District.
 - S. Commercial baseball field, bathhouse, or boathouse, golf driving range, skating rink, swimming pool, or similar open air recreational uses and facilities, but not within two hundred (200) feet of any R District.
 - T. Public uses subject to subsection 7 of this section.
 - U. Residential uses subject to subsection 7 of this section.
2. Permitted Accessory Uses.
- A. Other accessory uses customarily incidental to the above permitted uses.
 - B. Parking and loading.
 - C. Signs, as permitted by Section 165.27.
 - D. A caretaker's apartment.

3. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

- A. Barber Shops/Beauty Shops: one (1) for each chair plus one (1) for each employee or one hundred (100) square feet.
- B. Massage/Tanning Salons: one (1) for each chair, massage table or tanning bed plus one (1) for each employee or one hundred (100) square feet.
- C. Cemeteries: one (1) for each full-time employee.
- D. Schools: one (1) per four (4) seats in the largest assembly hall.
- E. Laundries, Coin-Operated and Dry Cleaners: one (1) per three (3) washers/cleaning machines plus one (1) for each two (2) employees on maximum shift.
- F. Nurseries and Greenhouses: one (1) per five hundred (500) square feet of floor area plus one (1) per full-time employee.
- G. Golf Courses: two (2) per hole plus affiliated uses.
- H. Motels or Motor Hotels: one (1) for each unit plus one (1) for each employee on maximum shift and one (1) for each recreational vehicle hook-up.
- I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
- J. Automobile or Machinery Sales: one (1) for each one thousand (1,000) square feet of floor area plus one (1) for each full-time employee.
- K. Banks, Businesses and Professional Offices: one (1) for each two hundred (200) square feet of floor area.
- L. Bowling Alleys: six (6) for each alley.
- M. Convenience Stores (Drug, Grocery, Hardware and Similar Stores): one (1) for each fifty (50) square feet of floor area devoted to sales plus one (1) for each full-time employee.
- N. Dance Hall and Assembly Halls Without Fixed Seats: one (1) for each fifty (50) square feet of floor area used for assembly or dancing.

O. Restaurants: at least one (1) parking space for every three (3) patrons based upon the establishment's maximum seating capacity. Restaurants with a drive-through pickup window shall, in addition to providing the required parking spaces, provide a separate, distinct, and clearly marked drive-through lane for motor vehicles, which is accessible both from and to public streets or alleys without interfering with patrons using the required parking spaces.

P. Food Pickup Establishments: minimum of two (2) plus one (1) for each one hundred (100) square feet of floor area not less than one-half ($\frac{1}{2}$) the total ground area to be devoted exclusively to parking and accessways.

Q. Funeral Homes, Mortuaries: six (6) per chapel room or parlor and one (1) per fifty (50) square feet of rooms used for services, whichever is greater and/or seventy-five (75) square feet of the total.

R. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.

S. Manufacturing Plants, Research or Testing Laboratories, Bottling Plants: two (2) for each three (3) employees on maximum working shift.

T. Medical or Dental Clinics: one (1) for each two hundred (200) square feet of floor area plus one (1) for each full-time employee and one (1) for each doctor.

U. Motels or Motor Hotels: one (1) for each unit, plus one (1) for each two (2) employees on maximum shift.

V. Motor Fuel Stations: one (1) for each employee on duty plus two (2) for each service bay or three hundred (300) square feet.

W. Coin-Operated Laundries and/or Dry Cleaning Establishments: one (1) for each three (3) washers and/or cleaning machine plus one (1) for each two (2) employees on maximum shift or one hundred (100) square feet.

X. Shoppers Goods (Appliance, Household Equipment, Furniture and Similar Stores): one (1) for each five hundred (500) square feet of floor area plus one (1) for each full-time employee or one hundred (100) square feet.

Y. Taverns or Bars: one (1) for each four (4) seats.

Z. Wholesale Establishments: one (1) for each four (4) employees on maximum shift or three hundred (300) square feet.

AA. All Other: in accordance with the Zoning Administrator.

4. Signs. In addition to the requirements of Section 165.27:

A. Real estate signs of a temporary nature, not exceeding two (2) in number per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.

B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding thirty (30) square feet in area except as may be authorized by the Board of Adjustment. *(Ord. 2006-08 – Oct. 06 Supp.)*

C. Small announcement or professional signs, not over forty (40) square feet in area, except as may be authorized by the Board of Adjustment, except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature. *(Ord. 2006-08 – Oct. 06 Supp.)*

D. The total area of all signs permitted on any one lot shall not exceed four (4) times the number of linear feet of the lot abutting public streets.

E. Wall signs flat against the building, not exceeding thirty (30) square feet in area, except as may be authorized by the Board of Adjustment, and pertaining to any of the permitted uses therein. *(Ord. 2006-08 – Oct. 06 Supp.)*

F. Billboards and signboards subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions:

(1) No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.

(2) No billboard or signboard facing shall exceed two hundred forty (240) square feet in area.

(3) No billboard, signboard or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

G. Elevated signs at least five (5) feet from any lot line.

H. One (1) pole sign or projecting sign for each business enterprise on the premises of not more than two hundred forty (240) square feet per sign face, at no point closer to the front line or a side line than one-half ($\frac{1}{2}$) of the required building setback distance, and not exceeding fifty (50) feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight (8) feet above the established grade level. *(Ord. 2006-08 – Oct. 06 Supp.)*

5. Height Regulations.

A. No building and any fixture attached thereto shall exceed forty (40) feet.

B. No accessory building or structure shall exceed thirty (30) feet in height.

6. Lot Area, Frontage and Yard Requirements.

A. Ground area occupied by buildings shall not exceed thirty percent (30%) of the total lot area.

B. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Section 165.09 and 165.10. When the business district is adjoining a residential district in the same block, the front and side yard requirements of the structure shall be the same as those of the adjoining district.

(1) Minimum Lot Width: fifty (50) feet.

(2) Minimum Front Yard Depth: thirty (30) feet.

(3) Minimum Side Yard Width: ten (10) feet.

(4) Minimum Rear Yard Depth: twenty (20) feet.

7. Use Limitations.

A. Any similar uses to those listed in subsection 1 of this section that are accessory to an interchange service area, which in the judgment of the Zoning Administrator will not be detrimental to the public health or safety.

B. Each service area shall be located so as to serve highway users.

C. Entrance and Exit: No vehicular entrance to or exit from property abutting shall be less than the requirements of the Iowa State Highway Commission for an entrance roadway to or from an exit roadway from such interchange. Each service area shall

be provided with an entrance and exit right-of-way for vehicular traffic not less than forty (40) feet in width at the property line.

D. Public uses shall have a minimum district size of one-quarter ($\frac{1}{4}$) acre. Minimum setbacks and required yards shall be the same as the most restrictive zoning district contiguous to the affected parcel.

E. Residential uses are allowed where:

(1) The dwelling (residential use) is located above the first (ground) floor of a permitted nonresidential (business) use.

(2) The dwelling (residential use) is located below the first (ground) floor of a permitted nonresidential (business) use.

F. Residential uses are allowed with Board of Adjustment approval if:

(1) The dwelling (residential use) is located on the first (ground) floor of a permitted nonresidential use and does not occupy more than 50% of the space for residential use on that level. The business use shall occupy the street side (front) portion of the first (ground) floor.

(2) The first (ground) floor shall not be used exclusively as an accessory use for the residential use of the structure or be used exclusively as a parking space or garage.

165.23 I-1 LIGHT INDUSTRIAL DISTRICTS.

1. Permitted Principal Uses.
 - A. Any retail business establishment occupying a completely enclosed building, such as appliance store, auto accessory store, bakery with baking limited to goods for retail sales on the premises, book or stationery store, cafe or restaurant, camera or photographic supply shop, candy or ice cream store, delicatessen, drugstore, fabric shop, floor covering store, florist shop, furniture store including reupholstery, gift shop, grocery store, haberdashery, or women's ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store, and variety store.
 - B. Any service establishment, such as a bank or other financial enterprise, barber or beauty shop, business or professional office, clothes cleaning or laundry pickup station, funeral home, theatre, and self-service laundry.
 - C. Bus terminal.
 - D. Business or trade school.
 - E. Commercial parking lot.
 - F. Department store.
 - G. Essential services as defined in Section 165.02.
 - H. Hotels and motor hotels, including recreational vehicle hook-ups.
 - I. Meeting hall, club and fraternal organization.
 - J. Music and dancing studio.
 - K. Planned Development District, pursuant to Section 165.25.
 - L. The following uses when occupying a completely enclosed building located at least one hundred (100) feet from any R District:
 - (1) Dance hall, bar or cocktail lounge, nightclub and similar enterprise.
 - (2) Printing, publishing, engraving or lithographing shop.
 - (3) Laundry and dry cleaning shop.

- (4) Automobile, truck, trailer, and garden and farm implement establishments for display, hire, sales, including sales lots.
 - (5) Bottling of soft drinks or milk, or distribution stations.
 - (6) Bowling alley, pool hall or billiard parlor, dance hall or cocktail lounge, nightclub and similar enterprises.
 - (7) Carpenter shop, electrical, heating, ventilating, or plumbing shop, furniture upholstery shop, printing, publishing, engraving, or lithographic plant, laundry and dry cleaning shop, sign painting shop, and similar establishments.
- M. Public parking lot, customer and other accessory parking area, subject to the applicable provisions of 165.26.
- N. Building material sales yards, if enclosed on all sides by an eight (8) foot high solid fence.
- O. Wholesale business and warehouses.
- P. Drive-in eating establishments.
- Q. Motor fuel stations subject to the conditions stipulated in Section 165.09.
- R. Animal hospitals and veterinary clinics provided that buildings or enclosures in which animals are kept shall be at least one hundred (100) feet from any lot in any R District.
- S. Commercial baseball field, bathhouse, or boathouse, golf driving range, skating rink, swimming pool, or similar open air recreational uses and facilities, but not within two hundred (200) feet of any R District.
- T. Tourist campgrounds.
- U. The following uses if located not less than one hundred (100) feet from any R District, provided any such operations are enclosed by a solid wall or fence not less than six (6) feet in height:
- (1) Builder's or contractor's plant or storage yard.
 - (2) Building material sales and storage yard, including concrete mixing.
 - (3) Lumberyard including millwork.

- (4) Open yard for storage and sale of feed, fertilizer or fuel.

V. The following uses, providing no part of a building occupied by such uses shall have openings other than stationary windows or required fire exits within one hundred (100) feet of any R District and that any material or goods located outside a building shall be screened from residential uses. Such screening shall be provided to reduce the potential visual, sound, and light impacts on residential uses in a quantity and location approved by the Zoning Administrator and/or Board of Adjustment. Such screening shall be permanently maintained by the property owner.

(Ord. 2006-08 – Oct. 06 Supp.)

- (1) Automobile repair garage doing major repair, including tire retreading or recapping, battery service and repair.

- (2) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, milk and food products.

- (3) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared material; canvas, cellophane, cloth, fiber, glass, leather, paper, plastics, precious or semi-precious metals or stone, rubber, textiles, wood and yarn.

- (4) The manufacture or assembly of electrical appliances, electronic instruments and devices, phonographs, radio and television sets, electric and neon signs, refrigerators and stoves.

- (5) Laboratory, experimental, film or testing.

W. Railroad freight stations, trucking or motor freight terminals, provided that service yards or docks are at least one hundred (100) feet from any lot in any R District.

X. Grain elevators and related operations.

Y. Any other use that is determined by the Board of Adjustment to be of the same general character as the foregoing permitted uses, but not including any use which may become noxious or offending in an I-1 District.

2. Permitted Accessory Uses.
 - A. Other accessory uses customarily incidental to the above permitted uses.
 - B. Parking and loading.
 - C. Signs, as permitted by Section 165.27.
3. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:
 - A. Barber Shops/Beauty Shops: one (1) for each chair plus one (1) for each employee or one hundred (100) square feet.
 - B. Massage/Tanning Salons: one (1) for each chair, massage table or tanning bed plus one (1) for each employee or one hundred (100) square feet.
 - C. Cemeteries: one (1) for each full-time employee.
 - D. Schools: one (1) per four (4) seats in the largest assembly hall.
 - E. Laundries, Coin-Operated and Dry Cleaners: one (1) per three (3) washers/cleaning machines plus one (1) for each two (2) employees on maximum shift.
 - F. Nurseries and Greenhouses: one (1) per five hundred (500) square feet of floor area plus one (1) per full-time employee.
 - G. Golf Courses: two (2) per hole plus affiliated uses.
 - H. Motels or Motor Hotels: one (1) for each unit plus one (1) for each employee on maximum shift and one (1) for each recreational vehicle hook-up.
 - I. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - J. Automobile or Machinery Sales: one (1) for each one thousand (1,000) square feet of floor area plus one (1) for each full-time employee.

- K. Banks, Businesses and Professional Offices: one (1) for each two hundred (200) square feet of floor area.
- L. Bowling Alleys: six (6) for each alley.
- M. Convenience Stores (Drug, Grocery, Hardware and Similar Stores): one (1) for each three hundred (300) square feet of floor area devoted to sales plus one (1) for each full-time employee.
- N. Dance Hall and Assembly Halls Without Fixed Seats: one (1) for each fifty (50) square feet of floor area used for assembly or dancing.
- O. Drive-in Eating Establishments: not less than one-half ($\frac{1}{2}$) of the total ground area to be devoted exclusively to parking and accessways.
- P. Food Pickup Establishments: minimum of two (2) plus one (1) for each one hundred (100) square feet of floor area not less than one-half ($\frac{1}{2}$) the total ground area to be devoted exclusively to parking and accessways.
- Q. Funeral Homes, Mortuaries: six (6) per chapel room or parlor and one (1) per fifty (50) square feet of rooms used for services, whichever is greater and/or seventy-five (75) square feet of the total.
- R. Hospitals, Nursing Homes and Similar Care Centers: one (1) for each five (5) beds plus one (1) for each doctor and employee or one (1) for each two (2) beds.
- S. Manufacturing Plants, Research or Testing Laboratories, Bottling Plants: two (2) for each three (3) employees on maximum working shift.
- T. Medical or Dental Clinics: one (1) for each two hundred (200) square feet of floor area plus one (1) for each full-time employee and one (1) for each doctor.
- U. Motels or Motor Hotels: one (1) for each unit, plus one (1) for each two (2) employees on maximum shift.
- V. Motor Fuel Stations: one (1) for each employee on duty plus two (2) for each service bay or three hundred (300) square feet.
- W. Coin-Operated Laundries and/or Dry Cleaning Establishments: one (1) for each three (3) washers and/or cleaning machine plus one (1) for each two (2) employees on maximum shift or one hundred (100) square feet.

- X. Shoppers Goods (Appliance, Household Equipment, Furniture and Similar Stores): one (1) for each five hundred (500) square feet of floor area plus one (1) for each full-time employee or one hundred (100) square feet.
- Y. Taverns or Bars: one (1) for each four (4) seats.
- Z. Wholesale Establishments: one (1) for each four (4) employees on maximum shift or three hundred (300) square feet.
- AA. All Other: in accordance with the Zoning Administrator.
4. Signs. In addition to the requirements of Section 165.27:
- A. Real estate signs of a temporary nature, not exceeding two (2) in number per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.
- B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding thirty (30) square feet in area except as may be authorized by the Board of Adjustment. *(Ord. 2006-08 – Oct. 06 Supp.)*
- C. Small announcement or professional signs, not over forty (40) square feet in area, except as may be authorized by the Board of Adjustment, except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature. *(Ord. 2006-08 – Oct. 06 Supp.)*
- D. The total area of all signs permitted on any lot shall not exceed four (4) times the number of linear feet of the lot abutting public streets.
- E. Wall signs flat against the building, not exceeding thirty (30) square feet in area, except as may be authorized by the Board of Adjustment, and pertaining to any of the permitted uses therein. *(Ord. 2006-08 – Oct. 06 Supp.)*
- F. Billboards, signboards and pole signs, subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions:
- (1) No billboard, signboard, pole sign or similar advertising sign shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.
 - (2) No billboard, signboard or pole sign facing shall exceed two hundred forty (240) square feet in area.

- (3) No billboard, signboard, pole sign or similar advertising sign shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- G. Elevated signs at least five (5) feet from any lot line.
- H. One (1) pole sign or projecting sign for each business enterprise on the premises of not more than two hundred forty (240) square feet per sign face, at no point closer to the front line or a side line than one-half ($\frac{1}{2}$) of the required building setback distance, and not exceeding fifty (50) feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight (8) feet above the established grade level. *(Ord. 2006-08 – Oct. 06 Supp.)*
5. Height Regulations. Height of permitted uses: fifty (50) feet in height.
6. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Sections 165.09 and 165.10:
- A. Minimum Front Yard Depth: fifty (50) feet.
- B. Minimum Side Yard Width: equal to building height but not less than ten (10) feet.
- C. Minimum Rear Yard Depth: height of building but not less than twenty (20) feet.
7. Use Limitations.
- A. No dwelling shall be allowed except for watchman or caretaker on the premises; and except that the owner of a dwelling within this district at the time of the enactment of these regulations shall be permitted to improve or rebuild a new dwelling on the approximate same location for use as said owner's own residence.
- B. When new areas are zoned I-1, screening shall be provided along those zoning district boundaries that are adjacent to land zoned residential. Such screening shall be provided to reduce the potential visual, sound, and light impacts on residential uses in a quantity and location approved by the Zoning Administrator and/or the Board of Adjustment. Such screening shall be permanently maintained by the property owner. *(Ord. 2006-08 – Oct. 06 Supp.)*

165.24 I-2 GENERAL INDUSTRIAL DISTRICTS.

1. Permitted Principal Uses.
 - A. Building or contractor's plant or storage yard, building material sales and storage yard including concrete mixing, lumberyard including millwork, open yard for storage and sale of feed, fuel or fertilizer provided any such operations are enclosed by a solid wall or fence not less than six (6) feet in height, located not less than two hundred (200) feet from any R District and thirty (30) feet from any B District.
 - B. Automobile salvage and wrecking operations, industrial and waste salvage operations and junkyards, provided all operations are conducted within an area enclosed on all sides with a solid wall or fence not less than eight (8) feet in height, located not less than two hundred (200) feet from any R District and one hundred (100) feet from any B District and six hundred sixty (660) feet from any State or Federal highway. No pile of salvage, scrap or other material shall be higher than eight (8) feet.
 - C. Any use of land or of structures engaged in the production, processing, cleaning, servicing, testing, repair or storage of materials, goods, or products not previously allowed, located not less than one hundred (100) feet from any R District and fifty (50) feet from any B District.
 - D. No use permitted under this section shall be so placed as to detract from a designated scenic or historic area.
 - E. Essential services as defined in Section 165.02.
 - F. Planned development district, pursuant to Section 165.25.
 - G. The following uses when located at least one hundred (100) feet from any R District: Automobile, truck, trailer, construction equipment and garden and farm implement establishments for display, hire, sales, including sales lots. A dwelling for a watchman or caretaker is allowed when in conjunction with said business.
 - H. Wholesale business and warehouses.
2. Special Exception Uses.
 - A. Building or contractor's plan or storage yard, building material sales and storage yard including concrete mixing, lumberyard including millwork, open yard for storage and sale of

feed, fuel or fertilizer provided any such operations are enclosed by a solid wall or solid fence not less than eight (8) feet in height, located not less than one hundred (100) feet from any R District and thirty (30) feet from any B District.

B. Automobile salvage wrecking operations, industrial and waste salvage operations and junkyards, provided all operations are conducted within an area enclosed on all sides with a solid wall or solid fence not less than eight (8) feet in height, located not less than one hundred (100) feet from any R district and one hundred (100) feet from any B District and six hundred sixty (660) feet from any State or Federal highway. No pile of salvage, scrap, or other material shall be higher than eight (8) feet.

C. Any use of land or structures engaged in the production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products not previously allowed, located not less than one hundred (100) feet from any R District and fifty (50) feet from any B District.

D. When authorized by the Board of Adjustment, slaughter of animals for processing with facilities and conditions to be approved by the Board of Adjustment. Such facility to be located not less than four hundred (400) feet from any R District and fifty (50) feet from any B District.

3. Permitted Accessory Uses.

A. Other accessory uses customarily incidental to the above permitted uses.

B. Parking and loading.

C. Signs, as permitted by Section 165.27.

D. Barbed wire fences which comply with the requirements of this Code of Ordinances.

4. Parking and Loading Requirements. In addition to the requirements of Section 165.26, parking spaces with necessary aisles, driveways and connections to public streets or alleys shall be provided as follows:

A. Barber Shops/Beauty Shops: one (1) for each chair plus one (1) for each employee or one hundred (100) square feet.

B. Massage/Tanning Salons: one (1) for each chair, massage table or tanning bed plus one (1) for each employee or one hundred (100) square feet.

- C. Dwellings, Single-Family: two (2) per dwelling.
 - D. Dwellings, All Other: one and one-half (1½) per dwelling.
 - E. Cemeteries: one (1) for each full-time employee.
 - F. Churches and Schools: one (1) per four (4) seats in the largest assembly hall.
 - G. Laundries, Coin-Operated and Dry Cleaners: one (1) per three (3) washers/cleaning machines plus one (1) for each two (2) employees on maximum shift.
 - H. Nurseries and Greenhouses: one (1) per five hundred (500) square feet of floor area plus one (1) per full-time employee.
 - I. Golf Courses: two (2) per hole plus affiliated uses.
 - J. Motels or Motor Hotels: one (1) for each unit plus one (1) for each employee on maximum shift and one (1) for each recreational vehicle hook-up.
 - K. Swimming Pools: one (1) per one hundred (100) square feet of water surface plus affiliated uses.
 - L. All Other: in accordance with the Zoning Administrator.
5. Signs. In addition to the requirements of Section 165.27:
- A. Real estate signs of a temporary nature, not exceeding two (2) in number per lot and no larger than six (6) square feet, set back twenty (20) feet from any highway, street or road.
 - B. A wall sign flat against a building attached to a nonconforming use on the premises, not exceeding thirty (30) square feet in area except as may be authorized by the Board of Adjustment. *(Ord. 2006-08 – Oct. 06 Supp.)*
 - C. Small announcement or professional signs, not over forty (40) square feet in area, except as may be authorized by the Board of Adjustment, except for churches, set back twenty (20) feet from any highway, street or road, may be erected in connection with any of the permitted principal uses of nonresidential nature. *(Ord. 2006-08 – Oct. 06 Supp.)*
 - D. The total area of all signs permitted on any one (1) lot shall not exceed four (4) times the number of linear feet of the lot abutting public streets.

E. Wall signs flat against the building, not exceeding thirty (30) square feet in area, except as may be authorized by the Board of Adjustment, and pertaining to any of the permitted uses therein. *(Ord. 2006-08 – Oct. 06 Supp.)*

F. Billboards, signboards and pole signs, subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions:

(1) No billboard, signboard, pole sign or similar advertising sign shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.

(2) No billboard, signboard or pole sign facing shall exceed two hundred forty (240) square feet in area.

(3) No billboard, signboard, pole sign or similar advertising sign shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

G. Elevated signs at least five (5) feet from any lot line.

H. One (1) pole sign or projecting sign for each business enterprise on the premises of not more than two hundred forty (240) square feet per sign face, at no point closer to the front line or a side line than one-half ($\frac{1}{2}$) of the required building setback distance, and not exceeding fifty (50) feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight (8) feet above the established grade level. *(Ord. 2006-08 – Oct. 06 Supp.)*

6. Height Regulations. Height of permitted uses: fifty (50) feet in height.

7. Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications in Section 165.09 and 165.10:

A. Minimum Front Yard Depth: forty (40) feet.

B. Minimum Side Yard Width: equal to building height but not less than twenty (20) feet.

C. Minimum Rear Yard Depth: height of building but not less than twenty (20) feet.

8. Use Limitations. When new areas are zoned I-2, screening shall be provided along those zoning district boundaries that are adjacent to land zoned residential. Such screening shall be provided to reduce the potential visual, sound, and light impacts on residential uses in a quantity and location approved by the Zoning Administrator and/or the Board of Adjustment. Such screening shall be permanently maintained by the property owner.

(Ord. 2006-08 – Oct. 06 Supp.)

165.25 PDD PLANNED DEVELOPMENT DISTRICTS. The PDD Planned Development District is intended to permit the private or public development or redevelopment of areas throughout the City which are substantially in accord with the goals and objectives of the City Comprehensive Plan. The reuse patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses, permitting flexibility in overall development while insuring adequate safeguards and standards for public health, safety, convenience, and general welfare.

1. District Requirements.
 - A. Permitted Uses.
 - (1) Any permitted use in Residential Districts R-1, R-M, R-2, R-3, R-4 and R-C of these regulations.
 - (2) Any permitted use in commercial districts B-1, B-2 and B-3 of these regulations, except signs.
 - (3) Any permitted use in Industrial Districts I-1 and I-2 of these regulations, except signs.
 - (4) Signs as regulated by this section and Section 165.27. Any other signs not specifically authorized by this section or Section 165.27 must be approved as apart of the Preliminary Development Plan.
 - B. Minimum District Size. One-half (1/2) acre for commercial or residential uses; one (1) acre for industrial uses.
 - C. Bulk Regulations.
 - (1) Maximum Structure Height: No limitation.
 - (2) Setbacks: If topographical or other barriers on the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Council shall impose either of the following requirements, or both:
 - a. Structures located on the perimeter of the development must be setback in accordance with the most restrictive provisions of the zoning district controlling the area within which the development is situated or is adjacent to; and

b. Structures or parking areas located on the perimeter of the development must be well screened in a manner which is approved by the Council.

(3) Minimum clear distance between a residential use structure and an industrial use structure, both of which are within the boundaries of the Planned Development District, shall be sixty (60) feet. This requirement can be reduced through the use of landscaping approved by the Council.

(4) Maximum Lot Coverage: If a Planned Development District is strictly for any one use, the total ground area occupied by structures for principal uses and accessory uses shall not exceed the following specified percentages of the total ground area:

- a. Residential: forty percent (40%).
- b. Commercial: fifty percent (50%).
- c. Industrial: sixty percent (60%).

A combination of any or all of these uses shall not exceed fifty percent (50%) of the total ground area, except in the case of a Planned Development District located within or adjacent to another zoning district which would allow a greater coverage, then the greater coverage allowances shall apply.

D. Use Limitations.

(1) Common open space and other common use facilities where provided shall be consistent with the planned function and located within the district so as to be convenient, readily accessible and visually attractive to all of the intended common users.

(2) Provisions for the continuing maintenance, preservation, care and conservation of all common open spaces and common use facilities shall be provided within the development plan.

(3) Common use recreational facilities such as play grounds and swimming pools shall be of such size to adequately serve the population for which they are intended. Such adequacy shall be determined in accordance with recognized national standards which shall

be referred to within the development plan. A performance guarantee shall be required for proposed recreational facilities and improvements which will not be provided in the first phase of development but will be provided in subsequent phases.

(4) Off-street parking and loading areas shall be provided for all uses within the district in accordance with the requirements of the underlying district regulations.

(5) When a nonresidential use abuts an existing residential use, screening shall be provided to assure year-round privacy to the residential use.

(6) Outdoor storage areas must be adequately screened and outdoor display of commercial goods or materials shall not be allowed except in areas specifically designated for such activities and adequately screened and enclosed.

2. Procedure For Application. The person developing land as a Planned Development District shall be required to submit sufficient copies of a development plan that shall include but not be limited to the following material for review and recommendation by the Commission.

A. A property area survey of the exact area for development as a PDD. (Scale 1" = 50')

B. An ownership report pertaining to all the land for development as a PDD.

C. A topography map of the entire area at a contour interval showing two (2) foot changes in elevation. This map shall indicate all natural and manmade features. (Scale 1" = 50')

D. A preliminary development plan drawing of the entire area carried out in such detail as to show the land uses being requested; lots, blocks, easements and streets; the densities being proposed where applicable; the location and type of utilities; off-street parking system and landscaping and screening.

E. A written statement explaining in detail the development plan and the full intent of the applicant including specifics of the development plan as it relates to the type of dwelling units contemplated and resultant population; the extent of non-residential development and the resultant traffic generated and parking demands created; and providing supporting documentation such as but not limited to: market studies, supporting land use request, the intended scheduling of

development and other such information as may be required by the City.

F. Written consent to rezoning of all the owners of land for which PDD designation is requested.

3. Preliminary Approval. Subject to review and recommendation by the Commission, the Council may approve the preliminary development plan. Approval by the Council shall be effective for a period of one (1) year. In reviewing and approving the preliminary plan, the following conditions shall be set forth:

A. The preliminary development plan shall be reviewed and a recommendation shall be made by the Commission relative to the plan's meeting the intent and the requirements of the City Comprehensive Plan.

B. Approval by the Council shall be given only after a public hearing.

C. Once an area has been included within the PDD by having been granted preliminary approval, no development shall take place therein until a final plan is approved and adopted by the Council or at the expiration date of the preliminary plan.

D. Approval of the preliminary plan by the Council shall not constitute approval of the final development plan. It shall be deemed as approval of the land use plan submitted and shall serve as a guide in the preparation of the final plan.

4. Final Plan Submittal. Within a period of two (2) years from the date of approval of the preliminary plan, a presentation of the final plan shall be made to the Council after review and recommendation by the Commission of the following:

A. A final overall development plan, for the entire area being requested under this PDD, shall be submitted. This plan shall be worked out in detail showing specific uses, building location, off-street parking, street alignment changes, open spaces and other physical plan details being proposed. Supporting documentation in the form of building plans, and schedule of construction shall be submitted.

B. The final plan shall reflect the use patterns as approved in the preliminary plan. Standards for building bulk and off-street parking shall be equal to at least the minimum standards set forth

for like uses in the requirements of the underlying zoning district or as may be modified by the Council.

5. Final Approval. In reviewing and approving the final plan, the following conditions shall be met:

A. The Council may approve the final development plan after review and recommendation is made by the Commission. A public hearing shall be required on the final plan. Upon approval of the final plan, the Council shall rezone the property to a Planned Development District in accordance with the final plan.

B. All subdivision procedures and dedications of public rights-of-way or planned public open spaces shall be made prior to any construction taking place on the site. The City may allow concurrent processing of the final development plan and final subdivision plat.

C. In residential areas any common open space shall be dedicated to an association of all residents within the Planned Development District, either as right-in-fee or easement, and shall be retained as open space for park recreation and related uses. All lands dedicated in fee or easement shall meet the requirements of the Council.

D. The final plan approved by the Council shall become an integral part of the ordinance creating or amending the PDD, and for purposes of recording, shall be referred to as "Planned Development No. _____," which number shall correspond to the number of the amending ordinance. All approved plans shall be filed with the City Clerk. All development within the Planned Development District shall be in compliance with the final plan as adopted by ordinance.

E. All development as contained in the approved final plan shall be completed within a negotiated development time table or, if no such schedule is established, three (3) years from the effective date of the ordinance which rezones the property to a Planned Development District, unless such three (3) year period is extended for a period not to exceed one (1) year upon approval by the Council.

6. Required Conditions. Before approving the plan in either the preliminary or final submittal, the Commission and the Council shall determine that:

- A. Provisions, satisfactory to the Council, have been made to provide for the financing of any improvements shown on the plan for open spaces and common use areas which are to be provided by the applicants and that maintenance of such improvements is assured by a means satisfactory to the Council.
 - B. The cost of installing all streets and necessary utilities has been assured by a means satisfactory to the Council.
 - C. No accepted changes or amendments to the final plan shall be made unless such changes or amendments have been reviewed and approved as in the instance of the first submittal.
 - D. Proceeding with a Planned Development District shall only be permitted if it is mutually agreeable to the Council and the developer.
7. Abandonment or Failure To Proceed.
- A. If the owner chooses to abandon preliminary development plan or an approved final development plan, said owner shall so notify the Commission and Council in writing. Upon receipt of such notice of abandonment by the owner, the Commission shall forthwith undertake proceedings to rezone the Planned Development area back to the zoning district classification which existed just prior to the application for Planned Development District. The owner may, however, include with the letter stating the abandonment of the Planned Development District an application for a rezoning to some other zoning district classification and the Commission shall forthwith proceed to consider that application in the same manner as for any application for rezoning.
 - B. If the owner fails to submit a Final Development Plan or Plans to the Commission within the time limits that are made a part of the preliminary plan; or in absence of such time limits, within two (2) years following the approval of a Preliminary Development Plan; or if the owner fails to substantially commence the construction included in an approved Final Development Plan within eighteen (18) months of the approval date of the Final Plan, and has not applied for an extension to the above time limits from the Commission, the Commission shall revoke its approval of the Preliminary Plan or Final Plan and shall so notify the owner and the Council in writing. If, within thirty (30) days of receipt of the notice of such revocation, the owner

does not present to the Commission an application for reinstatement of the Preliminary Development Plan or Final Development Plan, the Commission shall consider that the plan in question has been abandoned by the owner and shall proceed with the action prescribed in paragraph A above.

8. Planned Residential Redevelopment Review Process.

A. In order to promote rehabilitation, appropriate infill and redevelopment in residential areas, the Council may modify dwelling unit densities, yard and setback requirements, height and area regulations, parking and other bulk requirements of the ordinance after review and recommendation by the Commission. The Council, if granting any such waivers, will require the developer to post bonds or other such assurances as it may deem necessary in order to protect property values and mitigate negative impacts on adjacent properties.

B. Prior to application for a building permit there must first be submitted to the Commission and Council for their review of the following:

- (1) Complete details of the proposed site development including location of building, driveways, parking spaces, dimensions of the lot, lot area and yard dimensions.
- (2) Complete landscaping plans including species and sizes of trees and shrubs proposed.
- (3) Complete plans for proposed sidewalks to service parking, recreation and service areas within the proposed development; provisions for trash, garbage and general storage shall be included; all storage shall be enclosed with walls and roof.
- (4) Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area.
- (5) Complete structural, electrical and mechanical plans for the proposed buildings.
- (6) Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
- (7) Homeowners' Association Agreement shall meet all Federal, State and City ordinances and regulations.

C. The Commission and Council may designate conditions or guarantees in connection therewith to ensure that such project will constitute a residential environment of a sustained desirability and stability and will be consistent with the intent and purpose of the regulations to promote public health, safety and welfare.

165.26 PARKING AND LOADING.

1. General Provisions.

A. In all districts, off-street accessory parking areas, in the open or in a garage, shall be provided in connection with the uses set forth herein and to the extent indicated therewith, in addition to required loading and unloading spaces. Such areas, in the case of R districts and for dwellings in other districts, shall be on the premises intended to be served; and in the case of B-2, B-3, I-1 or I-2 Districts, and in connection with uses other than dwellings, such areas shall be on the premises intended to be served or where approved by the Board of Adjustment on adjoining or nearby property.

B. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

C. Parking spaces adjacent to an adjoining property line shall be provided with wheel guards or bumper guards so located that no part of parked vehicles shall extend beyond the property line.

D. All parking areas shall be graded and drained so as to dispose of all surface runoff in a manner approved by the Public Works Director.

E. The Zoning Administrator shall determine the number of spaces required by this chapter. If a specific use is not listed, provisions for a similar use listed herein shall apply.

F. Development Standards. Off-street accessory parking areas shall be of usable shape, and shall be improved, in accordance with requirements of the City with a durable and dustless surface and so graded and drained as to dispose of all surface water accumulation within the area. Any lighting used to illuminate such parking areas shall be so arranged as to reflect the lighting away from adjoining premises in any R District.

2. Off-Street Loading Areas. In all districts, in connection with every building or part thereof hereafter erected, having a gross floor area of two thousand five hundred (2,500) square feet or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same premises with such building at least one off-street loading space in addition to required parking accessible from an alley, easement or access, or when there is no such alley or easement of access, from a street plus one additional such loading space for each ten thousand (10,000) square feet or major fraction thereof gross floor area so used in excess of fifteen thousand (15,000) square feet. Such space shall be on the same lot as the use creating the requirement may occupy all, or any part of a required rear yard, or, with authorization of the Board of Adjustment, part of any other yard or court space on the same premises.

3. Design Standards.

A. Parking Spaces. Parking spaces exclusive of aisles and driveways shall meet the following minimum standards. All spaces shall be a minimum of twenty (20) feet in depth and ten (10) feet in width unless modified by the Board of Adjustment. The number and dimensions of handicapped parking spaces shall be in conformance with State law.

B. Loading Spaces. Each loading space shall not be less than ten (10) feet wide, forty (40) feet in length and fourteen (14) feet in area exclusive of access and turning area.

C. Floor Area. In the case of merchandising or service types of uses, "floor area" means the gross floor area used or intended to be used by tenants, or for service to the public customers, patrons or clients, but shall not include areas used principally for nonpublic purposes, such as toilet or restrooms, utilities, or dressing rooms.

D. Hospital Bassinets. In hospitals, bassinets shall not be counted as beds.

E. Benches in Place of Public Assembly. In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under the regulations.

165.27 SIGNS.

1. General Provisions.
 - A. Signs shall not be permitted within the public right-of-way or easements.
 - B. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
 - C. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure.
 - D. Upon notification by the Council or Zoning Administrator, that a sign is rotted, unsafe or unsightly, the owner of said sign or owner of property thereunder shall remove or repair same.
 - E. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which the sign is located.
 - F. All signs will need a permit, except political signs.
 - G. If signs become a nuisance, the Public Works Director is to investigate.
 - H. There is to be a temporary sign permit for thirty (30) days which can be renewed. If the owner or lessee wishes to make a temporary sign permanent, a variance is needed from the Board of Adjustment.
 - I. All banner signs are temporary (due to the life expectancy). Banners for special promotions will require a temporary permit.
 - J. Mobile signs (2-wheelers) and signs/banners posted on semi-trucks which park and trailers that dolly down in parking areas are to be classified as temporary signs.
 - K. In all business and industrial districts, no sign shall exceed two hundred forty (240) square feet of sign area.
 - L. No signs, other than those designated by the owner, shall be attached to Harlan Municipal Utilities facilities or equipment. This includes, but is not limited to, buildings, water towers, fences, utility poles, street light poles, pumps, switchgear, transformers, pedestals, substations, telecommunication satellites or towers.

2. Permits and Fees.
 - A. A permit shall be required for the erection, construction or alteration of any sign in the City and the planning area.
 - B. Application for permits by other than the property owner shall be accompanied, in each instance, by either a letter authorizing the placement of a sign on the land or building, signed by the owner or an authorized agent, or accompanied by a lease showing the rights of the applicant. Such application shall conform to the regulations herein provided and no signboard shall be erected or painted on any area until the application is acted upon and granted.
 - C. An application fee for a sign construction permit will be charged according to the fee schedule as set out in Section 155.04 (2).
(Ord. 2008-18 – Jan. 09 Supp.)
 - D. If a sign, for which a permit is granted, is not erected within sixty (60) days from the date of the permit, the permit shall, unless renewed, become void.
 - E. Advertising painted or placed on a structure shall be deemed subject to these regulations if permanent and over twelve (12) square feet in area.
 - F. All signs shall be constructed, located and placed in accordance with the laws of the State of Iowa and this Code of Ordinances.
 - G. Permits are issued for the life of the sign so long as it is kept in good condition, and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such case, the City may direct its removal.
 - H. There is to be a temporary sign permit for thirty (30) days which can be renewed. If the owner or lessee wishes to make a temporary sign permanent and/or increase the thirty (30) day term, a variance is needed from the Board of Adjustment. If the variance is deemed temporary with a renewal option, it will be necessary to reapply and repeat the variance appeal process. All variance renewals will be reviewed in January each year.
3. Nonconforming Signs. The lawful use of land for advertising, business signs or bulletin boards which are not installed or maintained in accordance with this section and other City, County, State and Federal requirements pertaining to construction, location and size which existed prior to the effective date of this chapter, shall be removed within fifteen (15) days after the sign becomes obsolete due to construction

deterioration or when the advertised business, service or event ceases operation.

4. Removal of Signs. All signs shall be removed within fifteen (15) days when a business ceases operation. This includes advertising, sandwich, business, billboard, pole, temporary, and mobile signs. Signs located on vacant buildings shall be removed by the property owner or his authorized agent within fifteen (15) days after said premises are vacated.

165.28 NONCONFORMING AND NONSTANDARD USES.

1. General Intent. It is the intent of this section to permit nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this section to be incompatible with permitted uses in the districts involved. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

2. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this section, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this chapter would have prohibited creation of such a lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

3. Nonconforming Structures.

A. Authority to Continue. Subject to the restrictions of this section, and so long as it remains otherwise lawful, any structure which is devoted to a use permitted in the zoning district in which the structure is located, but which structure does not comply with applicable set back requirements and/or does not comply with applicable bulk regulations, may continue unabated so long as it is

actively occupied and remains in continuous use with no periods of vacancy exceeding twelve (12) consecutive months. If any nonconforming structure ceases to be occupied for any reason for a period of more than twelve (12) consecutive months, it must be abated and removed from the premises upon which it is located or have its proposed continued existence approved by the Board of Adjustment as set forth in Section 165.29.

(Ord. 2006-06 – May 06 Supp.)

B. Enlargement, Repair, Alterations. Any such structure described in paragraph A may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with Section 165.10(3).

C. Damage or Destruction. In the event that any structure described in paragraph A is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.

D. Moving. No structure described in paragraph A shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. Nonconforming Uses.

A. Nonconforming Uses of Land. Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land

than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

B. Nonconforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout many parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a

permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(6) Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

5. Repairs And Maintenance.

A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this chapter shall not be increased.

B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6. Uses Under Exception Provisions Not Nonconforming Uses. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

165.28A SPECIAL EXCEPTION USE PERMIT.

1. Before occupying any storage facility as a special exception use as permitted under any of the following sections:

- 165.13 (2) (C)
- 165.14 (2) (C)
- 165.15 (2) (C)
- 165.16 (2) (E)
- 165.17 (2) (K)
- 165.18 (2) (F)

the property owner shall make application to the Board of Adjustment for a special exception use permit. Said permit shall be personal in nature authorizing the special exception use to the applicant only and only for as long as said applicant owns the property described in the application. After notice and hearing (similar to notice and hearing required to grant a variance), the Board of Adjustment may grant the permit if the Board is convinced the grant of the permit authorizing the special exception use, shall not materially alter the nature and character of the neighborhood and zoning district affected.

2. No existing structure devoted to a use not permitted by this Chapter 165 in the district in which it is located but authorized by a special exception use permit contemplated by this section, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

3. Any structure or building subject to a permit issued pursuant to this section may be superficially improved, but the special exception use shall not be extended to occupy any additional land outside such building. Furthermore, work may be done on any building devoted to any nonconforming use, in the form of ordinary repairs provided that the cubic content of the building as it existed at the time of passage of amendment of this chapter shall not be increased.

4. If no structure alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or the structure and premises combination shall not thereafter be used except in conformance with the regulations of the district in which it is located and shall thereafter be demolished.

6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

7. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

8. The permit applicant shall, within 3 months of the date the Board of Adjustment grants the application for a special exception use permit, provide the Board of Adjustment with a copy of a recorded notice to future potential purchasers that a special exception use permit will be required for continued use and occupancy of the structure described in the permit application. Failure to provide said copy of a recorded notice may result in the revocation of the special exception use permit.

9. Notwithstanding any other provision contained in these zoning regulations to the contrary, the non-refundable application fee for a special exception use permit contemplated by this section shall be \$150.00.

(Ord. 2007-02 – Apr. 07 Supp.)

165.29 BOARD OF ADJUSTMENT.

1. General Provisions.

A. 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 by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414 of the Code of Iowa.

B. A Board of Adjustment is hereby established, which shall consist of five (5) members to be appointed by the Mayor and approved by the Council, for staggered terms of five (5) years, commencing on the first day of July of the year of appointment. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. No member shall serve more than two (2) consecutive five (5) year terms. Vacancies shall be filled in the same manner as appointments. Members shall be residents of the City.

C. The Board of Adjustment shall adopt rules and regulations subject to the approval of the Council, necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

- D. The Board of Adjustment shall have the following powers:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.
 - (2) To hear and decide special exceptions to the terms of this chapter upon which such board is required to pass.
 - (3) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.
- E. The Clerk shall keep a record of the proceedings of the Board of Adjustment, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Clerk.
- F. Appeals to the Board of Adjustment concerning interpretation of administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the administrative official. Such appeals shall be taken within ten (10) days, as provided by the rules of the Board, by filing with the Zoning Administrator and the Secretary for the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall promptly notify all persons affected by the filing of the appeal and inform those affected persons of the stay provisions found in this section. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, and the person taking the appeal shall give public notice thereof as provided by the rules and regulations of the Board and the Board shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the

appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the administrative official, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

G. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414 of the Code of Iowa. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter the Council shall have only the duties of: (i) considering and adopting or rejecting proposed amendments or the repeal of this chapter, as provided by law, and (ii) of establishing a schedule of fees and charges.

H. Decisions of the Board of Adjustment. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have powers of the administrative official from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation on the application of this chapter.

2. Appeal of Decisions. In exercising the above-mentioned powers such Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made,

and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of three (3) members of the Board in the case of a five (5) member board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation.

3. Special Exceptions, Conditions Governing Applications; Procedures. The Board has the power to hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. Notice of hearing thereof shall be given by the owner of the property for which a special exception is sought as provided by the rules and regulations of the Board.

C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception and that the granting of the special exception will not adversely affect the public interest.

In granting any special exceptions, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

4. Variances; Conditions Governing Applications; Procedures. The Board has the power to authorize upon appeal in specific cases such

variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.

B. Notice of public hearing shall be given as provided in paragraph 3(B) of this section.

C. The public hearing shall be held. Any party may appear in person or by agent or by attorney.

D. The Board of Adjustment shall make findings that all requirements have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. After an applicant makes a request for a variance if at any time before or during the hearing on the requested variance, it becomes apparent to the Board that an issue exists concerning the location of a property line which must be resolved before a decision can be made whether or not to grant the variance applied for, the Board of Adjustment may order the matter tabled and order the variance applicant to obtain a survey at applicant's

expense to resolve the property line issue. If applicant refuses to obtain the survey, applicant's application for a variance shall be denied. The application fee shall not, thereafter, be refunded. However, if the applicant shall obtain the survey and the property line is found to be located where applicant claimed it to be initially, the board of Adjustment shall order the party questioning the location of the property line to reimburse the applicant for the cost of the survey. Should said party refuse to reimburse the applicant as required herein, the applicant may proceed to file suit for said amount in a court of competent jurisdiction.

G. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.30 SCHEDULE OF FEES, CHARGES AND EXPENSES. The Council shall establish a schedule of fees, charges and expenses and collection procedures for zoning applications, appeals, certificates of occupancy and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Council. All applications required by this chapter shall be accompanied by an application form provided by the City and a fee of fifty dollars (\$50.00). No permit, certificate, special exception or variance shall be issued unless or until such costs, charges, fees or expenses as set by Council have been paid in full, nor shall any action be taken on proceedings before the Commission or Board of Adjustment unless or until preliminary charges and other fees have been paid in full.

165.31 ADMINISTRATION AND ENFORCEMENT. A Zoning Administrator designated by the Council shall administer and enforce this chapter. The Zoning Administrator may be provided with the assistance of

such other persons as the Council may direct. This duly designated Zoning Administrator may further designate any other City of Harlan employee as the Assistant City Zoning Administrator to perform all the duties of the Zoning Administrator. This designation must be approved by the Council. Any such designation of an Assistant Zoning Administrator by the Zoning Administrator shall not deprive the Zoning Administrator from acting in that capacity, but shall, instead, be a concurrent designation empowering both individuals to exercise the powers of the City Zoning Administrator. In the event of a disagreement on any zoning topic or issues, the Zoning Administrator's opinion or decision shall take precedence over the opinion or decision of the Assistant City Zoning Administrator. However, all decisions of the Assistant City Zoning Administrator shall be final for appellate purposes. If the Zoning Administrator shall find that any of the provisions of the chapter are being violated, said officer shall notify in writing the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.32 BUILDING PERMITS REQUIRED. No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor, issued by the Zoning Administrator. Landscaping improvements, except decorative fencing, may be constructed without a building permit.

1. All applications for building permits shall be accompanied by plans showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including other buildings, proposed buildings and land; the number of families, housekeeping units or rental units the building is designed to accommodate; various conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

2. After the Zoning Administrator has marked the application either as approved or disapproved and attested to same by signing it, the application and plans shall be returned to the applicant by the Zoning Administrator. A photocopy of the plans, similarly marked, shall be retained by the Zoning Administrator.

3. After the building permit has been issued and after construction is commenced, if substantial change in construction of a structure is made in regard to setback, height, dimensions, usage, etc., from the building plan submitted with the building permit application, and which variance is brought to the attention of the Zoning Administrator, the Zoning Administrator will conduct an investigation to determine the nature and extent of the alleged change or variation. Said permit is subject to cancellation if the variance between the structure as built and as proposed in the building permit application is found to be material and substantial. If cancelled, to proceed with construction under the above conditions, a new building permit application with an amended building plan must be submitted and a new building permit issued by the Zoning Administrator.

4. No building permit shall be issued until the applicant establishes to the satisfaction of the Zoning Administrator that the site is adequately serviced by sufficient infrastructure to accommodate and service the proposed structure and use. The primary elements that will be reviewed in making this determination will be water, gas, electric, telecommunications, sanitary sewer, storm sewer, streets and sidewalks. No building permit shall be issued except in conformity with the provisions of this chapter, except after written approval of a variance from the Board of Adjustment.

165.33 CERTIFICATES OF OCCUPANCY. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

1. No nonconforming structure or use shall be maintained, renewed, used, changed or extended until a certificate of occupancy shall have been issued by the Zoning Administrator. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provisions of this chapter; owners or occupants and nonconforming uses or structures shall have three (3) months to apply for certificates of occupancy. Failure to make such application within three (3) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this chapter.

2. A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion,

provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

3. The Zoning Administrator shall maintain a record of all certificates of occupancy and copies shall be furnished upon request to any person.

4. Failure to obtain a certificate of occupancy shall be a violation of this chapter.

165.34 EXPIRATION OF BUILDING PERMIT. If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two (2) years after the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the person affected, together with notice that further work as described in the canceled permit shall not proceed unless or until a new building permit has been obtained.

165.35 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS AND CERTIFICATES OF OCCUPANCY. Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only such use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

165.36 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

165.37 ZONING APPEALS. All zoning appeals must be filed with the Zoning Administrator and the Board of Adjustment as provided in this chapter and as provided in the Board of Adjustment bylaws. A copy of the Board of Adjustment bylaws is available at City Hall. As provided in this chapter and as provided in the Board of Adjustment bylaws, appeals must be taken within ten (10) days of the action of the Zoning Administrator which provided the basis for the appeal.

165.38 VIOLATIONS. Any person violating any of the provisions of this chapter shall, upon conviction, be subject to the penalties set forth in Section 1.14 of this Code of Ordinances or a violation of any of the provisions of this chapter shall constitute a municipal infraction and may be enforced under Chapter 4 of this Code of Ordinances.

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
1992-03	August 4, 1992		
1994-01	January 18, 1994		
1994-03	March 1, 1994		
1994-11	September 6, 1994		
1996-03	May 7, 1996		
1996-04	May 21, 1996		
1996-08	September 17, 1996		
1997-03	June 3, 1997		
1999-03	June 1, 1999		
1999-04	June 1, 1999		
1999-05	June 15, 1999		
1999-06	June 15, 1999		
1999-07	June 15, 1999		
1999-09	September 21, 1999		
1999-16	November 16, 1999		
2003-03	July 15, 2003		
2004-02	September 21, 2004		
2004-03	November 16, 2004		
2005-01	January 1, 2005		
2005-02	February 1, 2005		
2005-06	April 19, 2005		
2005-09	October 4, 2005		
2007-01	January 2, 2007		
2007-03	April 2, 2007		
2007-04	April 17, 2007		
2007-08	October 16, 2007		
2008-09	June 17, 2008		
2008-14	November 4, 2008		
2009-03	April 7, 2009		
2009-04	April 7, 2009		
2009-07	May 19, 2009		
2010-03	October 5, 2010		
2013-04	June 4, 2013		
2014-10	August 19, 2014		

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.08 Information Required On Final Plat

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166.10 Returning Performance Bond

166.11 Maintenance Bond Required

166.12 Replats of Official Plats

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166.01 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined:

1. “Building line” means a line on a plat between which line and street or private place no building or structure may be erected.
2. “Commission” means the City Planning and Zoning Commission.
3. “Plat” means a map, drawing or chart on which the subdivider’s plan of the subdivision is presented and which the subdivider submits for approval and intends in a final form to record.
4. “Subdivision” means the division of a lot, tract or parcel of land into three (3) or more lots, plots, sites or other divisions of land for the purpose of either immediate or future sale of building development. It also includes a resubdivision of lands or lots, and the establishment or dedication of a road, highway, street or alley through a tract of land.

166.02 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. Plat Invalid. No plat of any subdivision shall be entitled to be recorded in the County Recorder’s office or have any validity until it shall have been approved in the manner prescribed in this chapter.
2. Improvements or Maintenance. There shall be no building or repair permits issued by the City for any structure located in any subdivision unless the subdivision has been platted, subdivided and approved as required by the laws of the State and the provisions of this chapter.

166.03 FEES. Before a preliminary plat may be considered by the Commission, the subdivider or an agent shall deposit with the Clerk a fee of fifty dollars (\$50.00).

166.04 CHANGES AND AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council. Such changes or amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation at least fifteen (15) days prior to such hearing.

166.05 PRELIMINARY APPROVAL BY COMMISSION.

1. Submission of Preliminary Plat. Whenever the owner of any tract or parcel of land in the corporate limits and, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles of the corporate limits of the City makes or intends to make a subdivision of such tract or parcel, said owner shall cause to be prepared a preliminary plat of such subdivision and shall submit ten (10) copies of such preliminary plat and other information to the Commission for its study and approval. The preliminary plat shall contain such information and data as outlined in this chapter. It is suggested that each subdivider confer with the Clerk and the Commission before preparing the preliminary plat in order to become thoroughly familiar with subdivider requirements and with the proposals of the comprehensive plan affecting that territory.

2. Commission Review. The Commission shall study the preliminary plat to see if it conforms to the minimum standards and requirements outlined in this chapter and shall approve or reject the preliminary plat within thirty-five (35) days after the date of submission thereof to the commission. If the Commission does not act within thirty-five (35) days, the preliminary plat shall be deemed approved; provided, however, that the subdivider may agree to an extension of the time for a period of not to exceed sixty (60) days. The approval of the preliminary plat does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat. The Commission may give adjacent land owners or other individuals affected by the subdivision opportunity to be heard in regard to the proposed subdivision. Approval of the preliminary plat expires at the end of six (6) months unless the final plat has been submitted.

3. Submission of Final Plat. After approval of the preliminary plat, the subdivider shall submit to the Commission, for its approval or rejection, five (5) black or blue line prints and one (1) reproducible print on linen, mylar or equivalent material of the final plat in the form of a record plat which shall contain the date and information outlined in Section 166.08 of this chapter. If the Commission approves the final plat, such approval and date thereof shall be noted on the plat over the signature of the Chairperson or Secretary of the Commission.

166.06 APPROVAL BY COUNCIL. After approval of the final plat by the Commission, the recommendation of approval and the final plat shall be submitted by the Chairperson or Secretary of the Commission to the Council for final approval and for acceptance of all streets, alleys, ways, easements, parks or other areas preserved for or dedicated to the public. If the Commission does not approve the final plat, the Council may approve the final plat and accept the public areas and easements thereon by a three-fourths (3/4) vote of the entire membership of the Council. No work shall be done on the subdivision and no lots sold before the final plat is accepted and recorded.

166.07 INFORMATION REQUIRED ON PRELIMINARY PLAT. The preliminary plat conceptual development plan shall be drawn to a scale of two hundred (200) feet to one (1) inch, or less, and shall include, show or be accompanied by the following information:

1. The names of the owner and subdivider and the engineer, surveyor and landscape architect responsible for the survey or design.
2. The proposed name of the subdivision which must not be so similar to that of an existing subdivision as to cause confusion and names of adjacent subdivisions.
3. Location of boundary lines and the width and location of platted streets or alleys within or adjacent to the property; physical features of the property, including location of watercourses, ravines, bridges, culverts, present structures and other features pertinent to subdivision; and location of all existing utilities with size. The outline of wooded areas or the location of important individual trees may be required. On extensive or broken tracts, the Commission may require contours at intervals of two (2) or five (5) feet. All grades shown shall be referred to the City datum or sea level elevation. The approximate acreage of the property is to be indicated.
4. The location and width of proposed streets, roads, lots, alleys, easements and other features and their relation to streets and alleys in adjacent subdivisions. If there are no adjacent subdivisions, then a map, made on a similar scale, must be presented to the Commission showing outline and ownership of adjacent properties, location and distance of the nearest subdivision and how the streets, alleys or highways in the subdivision offered for record may connect with those in the nearest subdivision. Where a tract of land is proposed for subdivision that is part of a larger logical subdivision unit in relation to the City as a whole, the Commission may require to be prepared a proposed plan of the entire area, such plan to be used by the Commission and the Council as an aid in judging the proposed subdivision.

5. A designation of the proposed uses of land within the subdivision, that is, the type of residential use, location of business or industrial sites and sites for churches, schools, parks or other special uses.

166.08 INFORMATION REQUIRED ON FINAL PLAT. The final plat shall be drawn to a scale of fifty (50) feet to one (1) inch unless otherwise directed by the Commission, and shall show or be accompanied by the following information:

1. The name of the owner and subdivider.
2. The name of the subdivision and adjacent subdivisions, the names of streets which shall conform wherever possible to existing street names and the numbers of lots and blocks, in accordance with a systematic arrangement. In case of branching streets, the lines of departure shall be indicated.
3. An accurate boundary survey of the property, with bearings and distances referenced to survey lines, and showing the lines of all adjacent lands and the lines of all adjacent streets and alleys with their width and names. Street, alley or lot lines in adjacent subdivisions shall be shown dotted.
4. Location of lots, streets public highways, alleys, easements, parks, streams, watercourses and other features with accurate dimensions in feet and decimals of feet, with the length of radii and of arcs of all curves, and with all other information necessary to reproduce the plan on the ground. Each lot within the plat shall be assigned a progressive number. Streets, alleys, parks, open areas, school property, other areas of public use or areas within the plat that are set aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated. Dimensions shall be shown from all angle points and points of curve to lot lines. Location of monuments and pins shall be shown and indicate if found or set.
5. The location of building lines on front and side streets, and the location of utility easements.
6. An affidavit of ownership, showing fee simple title and encumbrances and liens.
7. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are

designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

8. A certificate of dedication of all streets, public highways, alleys, easements, parks, and other land intended for public use, signed by the owner or owners and by all other parties who have a mortgage or lien interest in the property. Any restrictions which are to be filed with the plat.

9. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

10. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

11. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

12. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

13. A waiver of claim for damages occasioned by the establishment of grades or the alteration of the surface of any portion of the streets and alleys to conform to the grades so established.

14. Certification by a registered land surveyor to the effect that the plat represents a survey made by said surveyor and that all the necessary survey monuments are correctly shown thereon.

15. Certificates of approval to be filled out by the Commission.

16. Profiles of grades for streets.

17. North point, scale and date.

All figures and letters shown must be plain, distinct and of sufficient size to be easily read, and must be of sufficient density to make a lasting and permanent

record. When more than one sheet is used, a key map, showing the entire subdivision at smaller scale with block numbers and street names, shall be shown on each of the sheets.

166.09 MINIMUM STANDARDS. No final plat shall be approved by either the Commission or the Council unless it conforms to the following minimum standards and requirements:

1. Acreage Subdivisions. Where the parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided as to allow for the opening of major streets and the ultimate extension of adjacent minor streets. Easements providing for the future opening and extension of such streets may at the discretion of the Council be made a requirement of the plat.
2. Street Arrangements. Unless otherwise approved by the Commission, provision must be made for the extension of major streets as shown on the major street plan of the City, and minor streets must provide free circulation within the subdivision. Off-center street intersections will not be approved except in unusual cases.
3. Relation to Adjoining Streets and Land. The system of streets designated for the subdivision, except in unusual cases, must connect with streets already dedicated in adjacent subdivisions and where no adjacent connections are platted, must in general be the reasonable projection of streets in the nearest subdivisions, and must be continued to the boundaries of the tract subdivided, so that other subdivisions may connect therewith. In general, such streets shall be of a width as great as that of the streets so continued or projected.
4. Dead-end Streets and Courts. The Commission must approve any dead-end street. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets in adjacent land, but courts or “places” may be permitted where the form of contour of the land makes it difficult to plat with connected streets. Such courts or places shall provide proper access to all lots and shall generally not exceed four hundred (400) feet in length and a turnaround shall be provided at the closed end with an outside radius of at least fifty (50) feet.
5. Street and Alley Widths.
 - A. A minimum width for streets shall be sixty-six (66) feet, except that in unusual cases, the Commission may waive the above requirement.

B. The minimum width of an alley in a residential block, when required because of unusual conditions shall be sixteen (16) feet. (Alleys are not recommended in residential areas except under unusual conditions.) Alleys shall be required in the rear of all commercial and industrial districts and shall be at least twenty (20) feet wide. A five (5) foot cut-off shall be made at all acute and right angle alley intersections.

C. Where alleys are not provided, easements of not less than ten (10) feet in width shall be provided on each side of all rear lot lines and side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains. Easements of greater width may be required along lines or access lots where necessary for the extension of main sewers and similar utilities.

D. A building line safeguarding future widening may be accepted by the Commission in lieu of dedication of the indicated width. Dedication of a half street adjoining unplatted territory will not be accepted. No reserve strip will be permitted unless by special approval of the Commission.

6. Block Lengths. On general, intersecting streets, determining block lengths, shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or customary subdivision practices in the neighborhood. The block length should generally not exceed one thousand (1,000) feet in length, except that in outlying subdivisions, a greater length may be permitted where topography or other conditions, in the opinion of the Commission, justify such lengths. In blocks longer than eight hundred (800) feet, pedestrian ways through the block may be required near the center of the block. Such pedestrian ways should generally not exceed five hundred (500) feet.

7. Lot Sizes. The minimum dimensions for residential lots shall conform to the zoning district unless the Commission for special reasons, approves otherwise. Corner lots should have extra width, especially where they back on lots facing on the side street.

8. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions for the proper drainage and disposal of surface water and shall also provide and dedicate to the City an easement along such streams and watercourses meeting the approval of the Council.

9. Improvements. Before the final plat of any subdivided area shall be approved and recorded, the subdivider shall make and install the

improvements described in this section. In lieu of final completion of the minimum improvements, before the final plat is finally approved, the subdivider shall enter into a contract with the City to insure the completion of the improvements within a specified time. The performance of such contract shall be secured by the filing of a bond to be approved by the Council.

A. Street Grading. All streets shall be filled or excavated to the grade approved by the Council after receiving the recommendation of the Commission and the actual construction shall be subject to the supervision of City officials.

B. Sanitary Sewers. Where a public sanitary sewer is reasonably accessible and of adequate size, the subdivider shall connect or provide for the connections with such sanitary sewer and shall provide with laterals and mains of sufficient depth and fall within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. The construction of the sanitary sewer by the subdivider shall be made in accordance with City specifications and subject to City inspection at developer's cost. Plans for the sanitary sewer shall be submitted for approval of City officials.

C. Sidewalks. All new residential subdivisions shall have sidewalks, complying with City specifications, upon completion of each individual residence, duplex or apartment. The Council may require sidewalks where it is deemed necessary. (*See also Chapter 136.*)

D. Storm Sewers. An adequate storm water sewer system shall be provided by the developer or owner and design plans shall be submitted to City officials for approval. Valuable topographic and scenic features and ground cover shall be preserved and retained to the maximum extent possible. Design of buildings, lots, parking lots, driveways, green areas and drainage ways shall be adequate to preserve, as much as possible, original runoff characteristics and avoid diverting runoff onto public streets in cases where storm sewers are not available. All such plans and designs shall be submitted to City officials for approval.

E. Other Improvements. The Council, on its own motion or upon recommendation by the Planning and Zoning Commission, may also require certain other street improvements, including the installation of water mains, electric lines, natural gas pipes, telecommunication utilities, curb and gutter and street surfacing

or paving on any or all streets. Such improvements shall be installed under the supervision of City and/or Harlan Municipal Utility officials in accordance with specifications on file in the Clerk's office or in the office of the Harlan Municipal Utilities.

166.10 RETURNING PERFORMANCE BOND. The Council will return the performance bond required in Section 166.09(9) of this chapter to the subdivider upon certification by the City's engineer of satisfactory completion of the installation and construction of the required improvements and acceptance of the required improvements by the Council. Prior to certification by the City's engineer, the subdivider shall file with the City's engineer plans, profiles and cross-sections of the required improvements as they have been built.

166.11 MAINTENANCE BOND REQUIRED. Prior to the release of the performance bond, the subdivider shall file with the City a maintenance bond, to be approved by the Council, covering a period of two (2) years on all underground installations and four (4) years on all paving installations conditioned that the subdivider shall maintain such improvements in good repair for the periods specified herein.

166.12 REPLATS OF OFFICIAL PLATS. The following requirements apply to replats of official plats or subdivisions:

(Code of Iowa, Sec. 354.25)

1. A survey of an official subdivision plat shall conform as nearly as possible to the original lot lines shown on previous plats or surveys. A surveyor preparing a survey for a replat pursuant to this section may summon witnesses, administer oaths, and prepare affidavits and boundary line agreements as necessary in order to establish the actual location of property lines or lot lines. If a substantial error is discovered in an official plat or subdivision, or if the official plat or subdivision is found to be materially defective, or if a proprietor with property located within the subdivision or the City desires to amend, alter, or change an official subdivision plat for any legitimate purpose, a proprietor may petition the governing body of the City to approve the amended plat at the time the petition is filed for a replat of any part of an official subdivision plat, or the City, on its own initiative, may commence replat proceedings as provided in this section.

2. A petition for replat shall be accompanied by a survey of the proposed replat together with a fee of \$100.00.

3. Once a petition for replat is received by the Clerk, the Council shall refer the matter to the Planning and Zoning Commission for its recommendations.
4. If the Commission recommends approval of the petition for replat, the Council shall set a date for hearing on the petition and direct the Clerk to serve notice of the proposed replat to proprietors of record and holders of easements specifically recorded within the area to be replatted in the manner of original notice as provided in the Iowa Rules of Civil Procedure.
5. The notice of hearing on the proposed replat shall also be published by the Clerk once each week for two weeks prior to the date set for hearing in a newspaper of general circulation within the area of the proposed replat. Once the Clerk records proof of said publication, the City shall have jurisdiction of the replat procedure and may conduct the hearing and approve the replat as submitted, approve the replat on the condition certain changes are made in the survey of the proposed replat or deny the replat petition.
6. A survey of an official subdivision replat approved by the City or ordered by the City pursuant to this chapter:
 - A. Shall be prepared by a surveyor pursuant to Chapter 355 of the Iowa Code and recorded in the office of the Shelby County Recorder; and
 - B. Shall be exempt from the provisions of Section 354.11 of the Iowa Code; and
 - C. Shall have attached to the proposed replat a statement by the surveyor that the survey of the proposed replat has been prepared at the direction of the City.
7. Costs of the replat procedure, including the legal fees incurred by the City, shall be paid by the person filing the petition for replat or may be certified by the Clerk to the County Auditor and assessed against the property included in the replat area as provided in Section 354.17 of the Code of Iowa.
8. The replat, once approved, shall be recorded in the office of the County Recorder with a copy of said replat filed with the County Auditor and the County Assessor.

166.13 JURISDICTION. Pursuant to Section 354.9(1) of the 2007 Code of Iowa, as amended, the City of Harlan, hereby expresses its desire to review Subdivision plats or plats of survey for division or subdivisions for any real property located within two miles of the City of Harlan.

(Ord. 2007-09 – Dec. 07 Supp.)

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CHAPTER 168

HARLAN RUSHENBERG MUNICIPAL AIRPORT LAND USE & HEIGHT OVERLAY ZONING ORDINANCE

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168.02 Authority	168.11 Airport Overlay Zoning Permits
168.03 Statement of Purpose and Findings	168.12 Hazardous Markings and Lighting
168.04 Short Title	168.13 Height Limitations
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168.07 Air Space Obstruction Zones	168.16 Judicial Review
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168.09 Airport Overlay Zoning Maps	168.18 Conflicting Regulations

168.01 INTRODUCTION. This chapter 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 Harlan Rushenberg 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 chapter. Harlan Land Use & Height Zoning Maps are incorporated into and made part of this chapter. The chapter also provides for the enforcement of the chapter, the establishment of an Airport Commission; and imposition of penalties related to the implementation of the chapter.

168.02 AUTHORITY. Iowa Code Section 329.3 *Airport Zoning* empowers local municipalities to zone airports including height restrictions and land uses.

168.03 STATEMENT OF PURPOSE AND FINDINGS.

1. The Harlan Rushenberg Municipal Airport is acknowledged as an essential public facility to the State of Iowa and the local community.
2. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Harlan Rushenberg Municipal Airport.
3. There shall be no creation or establishment of a hazard that endangers public health, safety, welfare, and impacts an individual's quality of life nor prevents the safe movement of aircraft at the Harlan Rushenberg Municipal Airport.
4. 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.
5. The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power.

6. 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 Harlan may raise and expend public funds, as an incident to the operation of airports, to acquire or property interest therein.

168.04 SHORT TITLE. This chapter shall be known and may be cited as The Harlan Rushenberg Municipal Airport Land Use and Height Overlay Zoning Ordinance, and it is referred to as “the Ordinance” within the following sections.

168.05 APPLICABILITY. This ordinance encompasses a general area around the Harlan Rushenberg Municipal Airport including a two (2) mile boundary. Specific dimensions associated with the zoning boundary are shown in the Airport Land Use & Height Overlay Zoning Maps.

168.06 DEFINITIONS

1. Air Traffic. Aircraft operating in the air or on an airport surface, exclusive of loading ramps and parking areas.
2. Airport. Any area 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 Harlan Rushenberg Municipal Airport is owned by the City of Harlan.
3. Airport Elevation. The highest point on an airport's usable landing area measured in feet from sea level.
4. Airport Environs. The land use and people in the areas surrounding an airport which can be directly affected by the operation of the airport.
5. Airport Hazard. 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. Airport Layout Plan (ALP). The plan of an airport showing the layout of existing and proposed airport facilities.
7. 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- 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- 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- includes those areas that are parallel to the runway pavement and extend 1,050' from the edge of the primary surface.
 - Zone D- is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.
 - Zone E- is the outermost zone of the overlay 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.
8. Airport Reference Code (ARC). The ARC is an FAA coding system used to relate airport design criteria to the operational and physical characteristics of the airplanes intended to operate at the airport.
9. Airport Reference Point (ARP). The latitude and longitude of the approximate center of the airport.
10. Airport Zoning Permit. Airport zoning permit allowing new development or alteration or expansion of a nonconforming use.
11. Airside. That portion of the airport facility where aircraft movements take place, airline operations areas, and areas that directly serve the aircraft, such as taxiway, runway, maintenance and fueling areas.
12. Airspace. The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.
13. Approach and Runway Protection Zone Map. The approach and Runway Protection Zone 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.
14. Approach Slopes. The ratios of horizontal to vertical distance indicating the degree of inclination of the Approach Surface. The various ratios include:
- 20:1. For all utility and visual runways extended from the primary surface a distance of 5,000 feet.

- 34:1. For all non-precision instrument runways extended from the primary surface for a distance of 10,000 feet.
 - 50:1/40:1. For all precision instrument runways extending from the primary surface for a distance of 10,000 feet at an approach slope of 50.1 and an additional 40,000 feet beyond this at a 40:1 Approach Slope.
15. Approach Surface. 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.
16. Aviation Easement. A grant of a property interest in land over which a right of unobstructed flight in the airspace is established.
17. Building Codes. Codes, either local or state, that control the functional and structural aspects of buildings and/or structures. Local ordinances typically require proposed buildings to comply with zoning requirements before building permits can be issued under the building codes.
18. Commercial Uses. Commercial uses means a use category including land uses or activities involving the production, processing, manufacturing, or sale of goods or services for financial gain, including uses that provide merchandise to the general public. Accessory uses may include offices, storage, food service, or other amenities primarily for the use of employees and parking.
19. Compatibility. The degree to which land uses or types of development can coexist or integrate.
20. Easement. 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 from of development or activity, as well as any other legal rights in the property that may be specified in the easement document.
21. 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.
22. Federal Aviation Regulations (FAR). Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.
- FAR Part 36. Regulation establishing noise standards for the civil aviation fleet.

- FAR Part 91. Regulation pertaining to air traffic and general operating rules, including operating noise limits.
 - FAR Part 150. Regulation pertaining to airport noise compatibility planning.
 - FAR Part 161. Regulation pertaining to notice and approval of airport noise and access restrictions.
 - FAR Part 77. 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.
23. General Aviation Airport. Any airport that is not an air carrier airport or a military facility.
24. Hazard To Air Navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
25. 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.
26. Hold Harmless Agreement. An agreement which holds airport sponsors or jurisdictions harmless for alleged damages resulting from airport operations. Such agreements are recorded in deeds or permits as a condition of approval of a regulatory land use decision.
27. Industrial, Wholesale Trade, and Storage Uses. A use category including the following use types:
- A. Industrial development or uses involved in the research, design, manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or customers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales (typically 10% or less of the total gross floor area). Relatively few customers come to the site.

B. Industrial, manufacturing, wholesale trade, and warehouse/storage uses including uses that produce goods from raw or finished materials, uses that distribute goods in large quantities to primarily wholesale customers, or provide for storage or warehousing of goods, either in enclosed buildings or outdoors. Few customers, especially the general public, come to the site. Accessory activities may include sales, offices, parking, and storage.

28. Imaginary Surfaces. Those areas established in relation to the airport and to 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 extend 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 the extended runway centerline and extends outward and upward from the end of the runway primary surface. The approach slope of a runway is a ratio of 20:1, 34:1, or 50:1, depending on the approach type. The length of the approach surface varies from 5,000 to 50,000 feet and also depends upon the approach type.

29. Incompatible Land Use. 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).

30. Instrument Approach Procedure. A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or to a point from which a landing may be made visually. It is prescribed and approved for a specific airport by competent authority.

31. Instrument Flight Rules (IFR). Rules governing the procedure for conducting instrument flight. In addition, it is a term used by pilots and controllers to indicate a type of flight plan.
32. Instrument Landing System (ILS). A precision instrument approach system which normally consists of the following electronic components and visual aids: localizer, glideslope, outer marker, middle marker, and approach lights.
33. Itinerant Operation. Takeoff or landing operations of airplanes going from one airport to another airport that involves a trip of at least 20 miles. Local operations are excluded.
34. Land Use Compatibility. The coexistence of land uses surrounding the airport with airport-related activities.
35. 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.
36. Mitigation. The avoidance, minimization, reduction, elimination or compensation for adverse environmental effects of a proposed action.
37. Navigation Aids (NAVAID). Any facility used by an aircraft for guiding or controlling flight in the air or the landing or take-off of an aircraft.
38. Navigable Airspace. The airspace above minimum altitude for safe flight, and includes the airspace needed to ensure safety in take-off and landing of aircraft.
39. Noise Exposure Contours. Lines drawn around a noise source indicating constant energy levels of noise exposure. DNL is the measure used to describe community exposure to noise.
40. 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.
41. Noise Sensitive Area. 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.
42. Non-Conforming Use. Any pre-existing structure, tree, or use of land that is inconsistent with the provisions of the local land use or airport master plans.
43. Non-Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non precision instrument approach procedure has been approved or planned.

44. Object. Includes, but is not limited to above ground structures, NAVAIDS's, people, equipment, vehicles, natural growth, terrain, and parked aircraft.
45. Obstacle Free Zone (OFZ). The OFZ is the airspace below 150 feet (45 m) 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.
46. Obstruction. 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.
47. Off-Airport Property. Property that is beyond the boundary of land owned by the airport sponsor.
48. On-Airport Property. Property that is within the boundary of land owned by the airport sponsor.
49. Overlay Zone. A mapped zone that imposes a set of requirements in addition to those of the underlying zoning district.
50. Part 150 Study. Part 150 is the abbreviated name for the airport noise compatibility planning process outlined in Part 150 of the Federal Aviation Regulation (FAR) that allows airport owners to voluntarily submit noise exposure maps and noise compatibility programs to the FAA for review and approval. See "Noise Compatibility Plan."
51. Primary Surface. 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 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.
52. Primary Runway. The runway used for the majority of airport operations. Large, high-activity airports may operate two or more parallel primary runways.
53. Public Assembly Use. Means a structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. "Public assembly use" does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

54. Public Use Airport. Means either a publicly owned airport or a privately owned airport open for public use.
55. Residential and Accommodation Uses. Mean a use category that includes the following use types:
- A. Residential uses that provide living accommodations, including sleeping, eating, cooking and sanitary facilities, to one or more persons, and where tenancies typically last longer than 30 days.
 - B. Accommodation uses characterized by visitor-serving facilities that provide temporary lodging in guest rooms or guest units, for compensation, and with an average length of stay of less than 30 days. Accessory uses may include pools and other recreational facilities for the exclusive use of guests, limited storage, restaurants, bars, meeting facilities, and offices.
56. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
57. Runway Protection Zone (RPZ). An area off the runway end designed to enhance the protection of people and property on the ground.
58. Runway Safety Area. A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an overshoot, or excursion from the runway.
59. 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.
60. Utility Runway. A utility runway constructed for and intended to be used by propeller driven aircraft of 12,500 pounds gross weight or less.
61. 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 on the petitioner being required to comply with those regulations and standards from which an exemption or exception is sought.
62. Visual Approach. An approach to an airport conducted with visual reference to the terrain.
63. Visual Runway. A runway without an existing or planned straight-in instrument approach procedure.
64. Visual Flight Rules (VFR). Rules that govern the procedures for conducting flight under visual conditions. The term "VFR" is also used in the United States to indicate weather conditions that are equal to or greater than minimum VFR requirements. In addition, "VFR" is used by pilots and controllers to indicate the type of flight plan.

65. Wetland. Land on which water covers the soil or is present either at or near the surface of the soil or within the root zone, all year or for varying periods of time during the year, including during the growing season. Wetlands provide a variety of functions and can be regulated by local, state, and Federal laws. Normally, wetlands are attractive to many types of wildlife, including many, which rank high on the list of hazardous wildlife species.

66. Wildlife Attractants. Means any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the landing or departure airspace or the airport's air operations area. These attractants include, but are not limited to, architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.

67. Wildlife Hazards. Means species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under the control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.

168.07 AIR SPACE OBSTRUCTION ZONES. The Zoning Ordinance to Limit Height of Objects Around an Airport was approved by resolution of the Harlan City Council on April 5, 1983 and adopted by the Shelby County Board of Supervisors on May 10, 1983. The zones defined in the ordinance are illustrated on the official Harlan Municipal Airport Layout Plan Update consisting of thirteen sheets, prepared by Kirkham Michael and dated August 2013, attached as Exhibit B to this Ordinance. Such Airport Layout Plan may be amended, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this Ordinance.

168.08 LAND USE SAFETY ZONES. FAR Part 77 Surfaces and RPZ's have been combined to create five airport overlay zones. These five zones are designed to maintain compatible land uses around the Harlan Municipal Airport. The zones shall be evaluated for compatible land uses.

1. Definition of Zones. Five airport overlay zoning districts are prescribed within this Ordinance. 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.

A. Zone A – Runway Protection Zone (RPZ). Zone A 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. The dimensional standards for this zone are the same as those described in the *Airport Design AC* (AC 150/5300-13 Change 11) and are shown in the following table.

Runway Ends	Approach Visibility Minimums ¹	Dimensions			
		Length L feet	Inner Width W ₁ feet	Outer Width W ₂ feet	RPZ acres
Runway 15	1 mile	1000	500	700	13.77
Runway 33	1 mile	1000	500	700	13.77
Runway 3	visual	1000	250	450	8.035
Runway 21	visual	1000	250	450	8.035

¹ The RPZ dimensional standards are for the runway end with the specified approach visibility minimums. The departure RPZ dimensional standards are equal to or less than the approach RPZ dimensional standards. When an RPZ begins other than 200 feet (60m) beyond the runway end, separate approach and departure RPZs should be provided. Refer to FAA AC 150/5300-13, Change 11, Appendix 14 for approach and departure RPZs. Source: FAA AC 150/5300, Change 11, Airport Design Standards.

B. **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-precisions, or precision) that a specific runway has and the type/size of aircraft utilizing the runway. The following table 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 RP overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ.

Table Airport Overlay Zones B-D Dimensional Standards

Item	Runway Dimensional Standards (Feet)			
	Runway 15	Runway 33	Runway 3	Runway 21
Primary surface width and Zone B inner width	500	500	250	250
Zone B end width	3,500	3,500	1,250	1,250
Zone B length	10,000	10,000	5,000	5,000
Zone C width	1,050	1,050	1,050	1,050
Zone D radius	10,000	10,000	5,000	5,000
Zone E width	4,000	4,000	4,000	4,000

C. **Zone C – Transitional Surface.** Zone C includes those areas that are parallel to the runway pavement and extend 1,050’ 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.

D. **Zone D – Horizontal Surface.** Zone D is typically elliptical in shape, depending upon the runway types and configurations at individual airports.

- E. 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.
2. Zone Compatibility. The following tables shall be utilized to evaluate land use compatibility for various land use classifications.
- A. Uses identified as compatible shall not require additional review, however, consideration should be given to the following five areas of concerns:
- (1) Noise sensitive issues
 - (2) High concentrations of people
 - (3) Tall structures
 - (4) Visual obstructions
 - (5) Wildlife and bird attractants
- B. Uses found to be NOT compatible shall be precluded from development within the specific zones.
- C. Uses found to require additional review shall be evaluated for general compatibility utilizing the *Compatible Land Use Planning Checklist* and the five primary areas of concern noted above.

HARLAN MUNICIPAL AIRPORT ZONE CHART					
<i>C = Compatible</i>		<i>AR = Additional Review Required</i>		<i>NC= Not Compatible</i>	
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Residential Activities					
Single-Family Uses (1 dwelling per lot)					
<i>Detached Single Family Dwelling</i> (i.e. farm dwelling, detached single family house, manufactured/modular/mobile homes if converted to real property and taxed)	NC	AR	NC	AR	C
<i>Detached Zero Lot Line Dwelling</i> (i.e. condominium)	NC	AR	NC	AR	C
<i>Attached Single Family Dwelling</i> (i.e. townhouses)	NC	AR	NC	AR	C
Two Family Uses (i.e. two principal dwelling units within one building on the same parcel)	NC	AR	NC	AR	C
Multi-Family Uses (i.e. three or more principal dwelling units within a single building on the same parcel, apartments such as condominium, elder, assisted living, townhouse-style)					
<i>Low-Rise</i> (1-3 Levels)	NC	NC	NC	AR	C
<i>Mid-Rise</i> (4-12 Levels)	NC	NC	NC	AR	C
<i>High-Rise</i> (13+ Levels)	NC	NC	NC	AR	C
Group Living Uses (i.e. assisted living, group care facilities, nursing and convalescent homes, independent group living)	NC	NC	NC	AR	C
Manufactured Housing Parks	NC	NC	NC	AR	C

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Commercial Activities					
Eating and Drinking Establishments (i.e. restaurants, cafes, coffee shops, fast food restaurants, bars, nightclubs, taverns, cocktail lounges)	NC	AR	AR	C	C
Quick Vehicle Servicing (i.e. full-serve and mini-serve gas station, unattended card key service stations, car washes)	NC	AR	AR	C	C
Office Uses (i.e. business, government, professional, medical, or financial)					
<i>General Office</i> (i.e. professional offices, financial businesses, government offices)	NC	AR	AR	AR	C
<i>Low-Rise</i> (1-3 Levels)	NC	AR	AR	AR	C
<i>Mid-Rise</i> (4-12 Levels)	NC	NC	NC	AR	C
<i>High-Rise</i> (13+ Levels)	NC	NC	NC	AR	C
<i>Medical/Dental Office</i> (i.e. medical and dental clinics, chiropractic clinics, physical therapy clinics)	NC	AR	AR	AR	C
<i>Low-Rise</i> (1-3 Levels)	NC	AR	AR	AR	C
<i>Mid-Rise</i> (4-12 Levels)	NC	NC	NC	AR	C
<i>High-Rise</i> (13+ Levels)	NC	NC	NC	AR	C

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Commercial Activities (Continued)					
Retail Uses (i.e. sale, lease, or rent of new or used products)					
<i>Sales-Oriented</i> (i.e. appliances, convenience stores, bakeries, electronics, furniture, garden supplies, gas stations, groceries, hardware, malls, strip malls, videos)	NC	AR	AR	AR	C
<i>Personal Service-Oriented</i> (i.e. retail service-banking establishments, Laundromats/dry cleaning, quick printing services, beauty/tanning salons, funeral homes)	NC	AR	AR	AR	C
<i>Repair-Oriented</i> (i.e. consumer goods- electronics, office equipment, appliances)	NC	AR	AR	AR	C
<i>Hospitality-Oriented</i> (hotels, motels, convention centers, meeting halls, event facilities)	NC	NC	NC	AR	C
<i>Low-Rise</i> (1-3 Levels)	NC	AR	AR	AR	C
<i>Mid-Rise</i> (4-12 Levels)	NC	NC	NC	AR	C
<i>High-Rise</i> (13+ Levels)	NC	NC	NC	AR	C
<i>Outdoor Storage and Display-Oriented</i> (i.e. outdoor storage-lumber yards, vehicles sales, landscape material and nursery product sales, farm supply and equipment sales)	NC	AR	AR	AR	C
Surface Passenger Services (i.e. passenger terminals for buses, rail services, local taxi and limousine services)	NC	AR	AR	C	C
Vehicle Repair Uses (i.e. vehicle repair or service shops, alignment shops, tire sales)	NC	AR	AR	C	C

HARLAN MUNICIPAL AIRPORT ZONE CHART					
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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Industrial/Manufacturing Activities					
Industrial Service Uses (i.e. machine shops, tool repair, towing and vehicle storage, building supply yards, heating/plumbing/electrical contractors, exterminators, janitorial services, fuel oil distributors, solid fuel yards)	NC	AR	AR	AR	C
Manufacturing and Productions Uses (i.e. manufacturing, processing, fabrication, packaging or assembly of goods)					
<i>Technical/Light Manufacturing</i> (i.e. electrical components, engineering, scientific and research, office, computer hardware/software, optical, pharmaceuticals, printing/photo facilities, publishing)	NC	AR	AR	AR	C
<i>General Manufacturing</i> (i.e. manufacturing, compounding, assembling or treatment of most articles, materials, or merchandise)	NC	AR	AR	AR	C
<i>*Heavy Manufacturing</i> (i.e. concrete and asphalt plants, meat packing plants, wet corn milling, manufacturing of animal feed, paper/paperboard mills, ethanol plants)	NC	NC	NC	AR	C
Mining and Extraction Uses	NC	NC	NC	AR	C
Salvage Operations (i.e. firms that collect, store, and dismantle damaged or discarded vehicles, machinery, appliances, and building material)	NC	C	NC	C	C

*Heavy Manufacturing typically has excessive smoke, dust, or hazardous waste

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Industrial/Manufacturing Activities (Continued)					
Self-Service Storage Units (i.e. mini-warehouses/storage facilities)	NC	C	AR	C	C
Warehouse and Freight Uses (i.e. major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals)	NC	C	AR	C	C
Waste-Related Uses (i.e. recycling centers, sanitary landfills, waste transfer stations, composting, energy recovery plants, sanitary and water treatment facilities, sanitary collection/pumping facilities, hazardous waste collection sites)	NC	NC	NC	AR	AR
Wholesale Sales Uses (i.e. sale, lease, or rental of products to retailers for industrial, institutional, or commercial business users)	NC	AR	AR	AR	C

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Institutional Activities					
Basic Utility Uses (i.e. utility substation facilities, electrical substations, water and sewer lift stations, water towers)	NC	AR	NC	AR	C
College and Universities (i.e. public or private colleges and universities, technical colleges, seminaries)	NC	NC	NC	AR	C
Community Service Uses (i.e. public, nonprofit, or charitable nature providing a local service to the people)					
<i>General Community Service</i> (i.e. libraries, museums, transit centers, park and ride facilities, senior/community/neighborhood centers, police and fire stations)	NC	AR	AR	AR	C
<i>Community Service-Shelter</i> (i.e. transient housing)	NC	AR	AR	AR	C
Daycare Uses (i.e. childcare centers, adult daycare, preschools, after school programs)	NC	NC	NC	AR	C
Detention Facilities (i.e. prisons, jails, probation centers, juvenile detention homes, halfway houses)	NC	NC	NC	AR	C
Educational Facilities (i.e. public and private schools)					
<i>General Educational Facilities</i> (i.e. public and private elementary, middle, junior, and senior high schools including religious, boarding, military schools)	NC	NC	NC	AR	C
<i>Specialized Education Facilities</i> (i.e. specialized trade, business, or commercial courses, nondegree-granting schools)	NC	NC	NC	AR	C
Hospitals (i.e. hospitals, medical centers)	NC	NC	NC	AR	C
Religious Assembly Uses (i.e. churches, temples, synagogues, mosques, Masonic, eagles, moose, or elk lodges)	NC	NC	NC	AR	C

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Infrastructure Activities					
Communication Transmission Facility Uses (i.e. broadcast, wireless, point to point, emergency towers and antennae)	NC	NC	NC	AR	AR
Parking Uses (i.e. ground lots, parking structures)	AR	C	AR	C	C
Transportation Uses (i.e. highways, interstates, local and county roads)	AR	C	C	C	C
Utility Uses (i.e. solar power generation equipment, wind generators, wind farms)	NC	NC	NC	AR	AR

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Infrastructure Activities					
Agricultural Uses (i.e. commercial cultivation of plants, livestock production)					
<i>Plant-related</i> (i.e. crop farming, vegetable, fruit, and tree, wholesale plant nurseries)	AR	AR	AR	C	C
<i>Animal-related</i> (i.e. livestock operations, dairy farms, horse farms)	AR	AR	AR	C	C
<i>Resident-related</i> (i.e. single-family home, mobile home if converted to real property and taxed)	NC	AR	NC	AR	C
<i>Facility-related</i> (i.e. fuel bulk storage/pumping facility, grain elevator, livestock/see/grain sales)	NC	NC	NC	AR	AR
Floodplains	NC	NC	NC	AR	AR
Water Bodies (i.e. open bodies containing water)					
<i>Man-made resources</i> (i.e. mining and extraction, water detention ponds, wetlands)	NC	AR	AR	AR	AR
<i>Naturally occurring</i> (i.e. lakes, ponds, prairie pot holes, rivers, streams, wetlands)	NC	AR	AR	C	C
Wildlife Preservation Areas (i.e. petting zoos, wildlife rehabilitation centers, zoos)	NC	NC	NC	AR	C

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Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Parks and Recreation Activities					
Commercial Recreational Uses (i.e. facilities used for physical exercise, recreation, or culture)					
<i>Outdoor</i> (i.e. campgrounds, tennis/swimming facilities, drive-in theaters, skating rinks, pavilions, amphitheaters)	NC	NC	NC	AR	C
<i>Indoor</i> (i.e. physical fitness centers, health clubs, bowling alleys, skating rinks, billiard halls, arcades, indoor theaters)	NC	AR	NC	AR	C
<i>Golf</i> (i.e. golf driving ranges, outdoor miniature golf, 9+ hole courses)	NC	AR	NC	C	C
Utility Uses (i.e. amusement/theme parks, fairgrounds, racetracks, sports arenas)	NC	NC	NC	AR	AR
Parks (i.e. aquatic, mini, private, sports, neighborhood, school, community)	NC	AR	NC	C	C
Casino	NC	NC	NC	AR	C

168.09 AIRPORT OVERLAY ZONING MAPS. The Airport Land Use & Height Overlay Zoning Districts established by the Ordinance are shown on the Harlan Municipal Airport Land Use & Height Overlay Zoning Maps consisting of one sheet, prepared by Kirkham Michael and dated June 2014, attached as Exhibit A to this Ordinance. Such Official Airport Land Use & Height Overlay Zoning Maps may be amended, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this Ordinance.

168.10 ORDINANCE ADMINISTRATION. It shall be the duty of the City Administrator referred to herein as the “Airport Zoning Administrator”, to administer the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Zoning Administrator upon forms furnished by the Airport Zoning Administrator. Application for action by the Airport Commission shall be forthwith

transmitted by the Airport Zoning Administrator should an applicant request review. Permit applications shall be either granted or denied by the Airport Zoning Administrator according to the regulations prescribed herein.

168.11 AIRPORT OVERLAY ZONING PERMITS. It shall be the duty of the applicant to provide the Airport Zoning Administrator with sufficient information to evaluate the proposed action. This information shall include but not be limited to the following as noted in the *Compatible Land Use Planning Checklist*:

1. Contact information
2. Structure information
3. Site information
4. Drawing information
5. Certification
6. Identify current and potential compatibility concerns

The Airport Zoning Administrator shall evaluate the proposal based upon information provided by the applicant. The Airport Zoning Administrator shall approve the permit if after evaluation, the proposed project is found to adequately compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator shall deny the permit. Should the permit be denied, the applicant shall have the right to request a variance or an appeal as prescribed in this Ordinance.

168.12 HAZARDOUS MARKINGS AND LIGHTING. 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, 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 City of Harlan.

168.13 HEIGHT LIMITATIONS. No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or b maintained within any airport zoning district established by the Ordinance to a height in excess of the applicable height limitation set forth in the Zoning Ordinance to Limit Height of Objects Around an Airport (Shelby County Ordinance 1983-1). Shelby County Ordinance 1983-1 is considered to be part of this Ordinance and is incorporated herein. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the "Official Harlan Municipal Airport Height Overlay Map" within the various airport zoning districts encompassed by the Ordinance. The Harlan Municipal Airport Height Overlay Map is located in the City Clerk'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.

168.14 VARIANCES. 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 his property in violation with any section of the Ordinance, may apply to the Airport Commission for variance from such regulation. No application for variance to the requirements of this Ordinance may be considered by the Airport Commission unless a copy of the application has been submitted to the Harlan Rushenberg Municipal Airport Zoning Administrator for an opinion as to the aeronautical effects of the variance.

168.15 APPEALS.

1. Any person property owner, or taxpayer impacted by any decision of this Ordinance, may appeal to the Airport Commission.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Airport Commission, by filing with the Airport Zoning Administrator a notice of appeal specifying the grounds thereof. The Airport Zoning Administrator shall forthwith transmit to the Airport Commission all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Zoning Administrator certifies to appeal the Airport Commission, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Airport Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Airport Commission on notice to the Airport Zoning Administrator and on due cause shown.
4. The Airport Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Airport Commission may, in conformity with the provision of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination as may be appropriate under the circumstances.

168.16 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Commission, may appeal to the Court of Record as provided in Iowa Code, Section 414.15.

168.17 PENALTIES. Any violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and shall be punishable by a fine of not more than \$1,000; each day a violation continues to exist shall constitute a separate offense.

168.18 CONFLICTING REGULATIONS. 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.

(Ch. 168 - Ord. 2014-08 – July 14 Supp.)