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Councilperson Stan Henrich introduced the following Ordinance on September 9, 2019 and asked that it be placed on file and read for the first time, Brian Burke 2nd and roll call vote was all ayes.

Councilperson Stan Henrich introduced the following Ordinance on October 7, 2019 and asked that it be placed on file and read for the second time, Steve Smith 2nd and roll call vote was ayes Smith, Henrich & Puhmann

ORDINANCE NO. 276

AN ORDINANCE ADOPTING THE "CITY CODE OF THE CITY OF NEWELL, IOWA, 2019."

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

SECTION 2. Adoption. The City of Newell, Iowa, hereby adopts the 2019 Code of Ordinances for the City of Newell, Iowa, pursuant to published notice and following public hearing on October 7, 2019, so required by Sections 362.3 and 380.8, Code of Iowa.

SECTION 3. Content. All ordinances or parts thereof in force on, November 13, 2019 and not contained in the "City Code of the City of Newell, Iowa, 2019," are hereby repealed from and after November 13, 2019, except as hereinafter provided.

That the repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before November 13, 2019 nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authoring the issuance of any bonds of said City or any evidence of said city's indebtedness or any contract or obligation assumed by resolutions of the Council not in conflict or inconsistent with the provisions of the "The City Code of the City of Newell, Iowa, 2019"; nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any ordinance naming, establishing, relocation and vacating any street, alley or public way, whether temporary or permanent; nor shall it affect any ordinance levying and imposing taxes; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any zoning ordinances and/or zoning map ordinances, or subdivision ordinances; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to November 13, 2019.

The 2019 Code of Ordinances shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

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

SECTION 4. Format. The 2019 Code of Ordinances of the City of Newell, Iowa, shall be compiled in loose-leaf format.

SECTION 5. Official Copy. The City Clerk shall be responsible for the compilation, organization, and maintenance of the official 2019 Code of Ordinances of the City of Newell, Iowa, and shall be keep the official copy on file in the office of the City Clerk.

SECTION 6. Public Copies. Additional copies of the 2019 Code of Ordinance shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the 2019 Code of Ordinances shall be kept on file in the City Clerk's office for public inspection.

SECTION 7. Additional Ordinances. All ordinances, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the 2019 Code of Ordinances. This section does not apply to grade ordinances, bond ordinances, zoning ordinances, naming streets and vacating streets and alleys.

SECTION 8. Effective Date. This Ordinance, after its passage and publication, as required by law, shall be effective as of the November 13, 2019.

Councilperson Pamela Wilken motioned that the 3rd reading of the proposed Ordinance be passed and adopted as Ordinance No. 276. Councilperson Brian Fuhrmann seconded the motion.

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

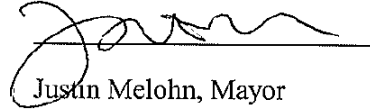
AYES: P. Wilken, S. Smith, B. Burke

B. Fuhrmann


NAYS: none

ABSENT: S. Henrich

HEREUPON, the Mayor announced the vote and declared that the Ordinance was duly adopted by the Council on November 4, 2019.


Justin Melohn, Mayor

Attest:


Melinda Buchholz, City Clerk


CERTIFICATE

STATE OF IOWA)

) SS

BUENA VISTA COUNTY)

I hereby certify that the following was published as Ordinance 276 in the City of Newell, Iowa on November 13, 2019.

Signed 
Melinda Buchholz, City Clerk

TITLE I: MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 1 - MUNICIPAL CODE

- 1.01 TITLE. These ordinances will be known and cited as the Municipal Code of Newell, Iowa.
- 1.02 DEFINITIONS. Terms used within this Municipal Code shall have the meanings defined below, unless specifically defined otherwise.
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 Newell, Iowa.
 3. "City Code" or "Municipal Code" means the current Municipal Code of the City of Newell, Iowa.
 4. "Clerk" means the City Clerk of Newell, Iowa.
 5. "Code" means the specific chapter in which a specific subject is covered and bears a descriptive title word.
 6. "Council" means the City Council of Newell, Iowa.
 7. "County" means Buena Vista County, Iowa.
 8. "Measure" means an ordinance, resolution, amendment or motion.
 9. "Month" means a calendar month.
 10. "Oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be the equivalent to the words "swear" and "sworn".
 11. "Occupant, Tenant" applied to a building or land, shall include any person who inhabits the whole or part of such building or land, whether alone or with others.
 12. "Ordinances" means the ordinances of the City of Newell as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
 13. "Parking" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.

14. "Peace Officers", sometimes designated "law enforcement officers", include:
 - a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
 - b. Marshals and police officers of cities.
 - c. Peace officer members of the department of public safety as defined in Code of Iowa Chapter 80.
 - d. Conservation officers as authorized by section 456A.13, Code of Iowa.
 - e. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section Code of Iowa, Section 321.477.
 - f. Such persons as may be otherwise so designated by law.
15. "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 but does not include a governmental body.
16. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or City.
17. "Property" shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
18. "Property Owner" means a person owning private/real property in the City as shown by the County's Auditor's plats of the City.
19. "Public Property" means any and all property owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
20. "Public Place" includes but is not restricted to any city-owned space or property, either open or enclosed.
21. "Sidewalk" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
22. "State" means the State of Iowa.

23. "Statutes, Laws" means the latest edition of the Code of Iowa as amended.
24. "Street" means and includes any public way, highway, street, avenue, boulevard or other public thoroughfare, and includes the entire width between property lines.
- 1.03 RULES OF CONSTRUCTION. In the construction of the Municipal Code, the following rules shall be observed:
1. Tense: words used in the present tense include the future.
 2. May: grants a power.
 3. Must: states a requirement.
 4. Shall or Will: imposes a duty.
 5. Gender: masculine gender shall include the feminine and neuter genders.
 6. Interpretation: all general provisions.
 7. The singular includes the plural, and the plural includes the singular.
- 1.04 AMENDMENTS. An amendment to an ordinance or to a code of ordinances must specifically identify the ordinance or code, or the section, subsection, or paragraph to be amended, and must set forth the ordinance, code, section, subsection, or paragraph as amended, which action is deemed to be a repeal of the previous ordinance, code, section, subsection, or paragraph amended.
(Code of Iowa, Sec. 380.2)
- 1.05 ALTERING CODE. It is unlawful for any person to change or amend by additions or deletions any part or portion of the Municipal Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the Municipal Code in any manner which will cause the law of the City to be misrepresented.
- 1.06 CATCHLINES AND NOTES. The catchlines of the several sections of the city code, titles, headings (chapter, division, article, title, section and subsection), editor's notes, cross references and state law references, unless set out in the body of the section itself, contained in the city code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of the section.
- 1.07 SEPARATE OFFENSE. If a violation of this code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day.
- 1.08 SINGLE OFFENSE. In cases where action or inaction is made punishable by more than one provision of this code, the city may select the provision or provisions of this code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1.07 of this chapter.

- 1.09 LIABILITY OF OFFICERS. No provision of this code designating the duties of any officer or employee of the city shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the council to impose such a penalty is specifically and clearly expressed in this code.
- 1.10 LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES. A violation of this code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a municipal infraction charge, or other civil remedies provided in other sections of this code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies.
- 1.11 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.
- 1.12 SUFFICIENCY OF SERVICE BY CERTIFIED MAIL. Wherever notice is allowed by certified mail in this City Code, then upon proof of an addressee's refusal to accept a certified mail, service by certified mail shall be deemed satisfied and the notice shall become effective. For purposes of this section, proof of an addressee's refusal to accept a certified mail may include the return from the postal service to include any markings from the postal service demonstrating that the addressee refused the certified mail and that the same has been returned to the sender."
- 1.13 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.
- 1.14 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.

- 1.15 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.
- 1.16 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)
- 1.17 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The criminal penalty surcharge required by Code of Iowa section 911.1 shall be added to a city fine and is not a part of the city's penalty.
(Code of Iowa, Sec. 364.3(2) and 903.1(1a))
- 1.18 SEVERABILITY. If any section, provision, or part of the Municipal Code is judged invalid or unconstitutional, such judgment will not affect the validity of the Municipal Code as a whole or any section, provision, or part not judged invalid or unconstitutional.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 2 - BOUNDARIES

2.01 CORPORATE LIMITS. The corporate limits of the City of Newell are described as follows:

City of Newell Corporate Limits: As per Buena Vista County Assessor's Office,

All of Sec. 17, T 90 N R 35 W of 5th P.M. and all that part of Section 20, T 90 N, R 35 W of 5th P.M. as follows; commencing at the NW cor. of said Section 20-90-35, thence South along the West Line of said Section 20 to the South Line of the North Half of the NW ¼ of said Section 20 to the West side of Harrison St.; thence South along the West Line of Harrison St. to the SE Cor. of Lot 3 Auditor's Subdivision E ½ NW ¼ Section 20-90-35; thence East along the North Line of Lot 4 and 6 of said Subdivision E ½ NW ¼ section 20-90-35 to the East Line of Fulton Street; thence North along the East Line of Fulton Street to the South Line of the North Half of the NE ¼ of said Section 20-90-35; thence East along the South Line of the N ½ NE ¼ said Section 20-90-35 to the West Line of the East ½ NE ¼ said Section 20-90-35; thence North along the West Line of said E ½ NE ¼ said Section 20-90-35 to the South Line of Third Street in the City of Newell, thence east on the South Line of Third Street to the East Line of Said Section 20-90-35; thence North to the Northeast Corner of said Section 20-90-35; thence West along the North Line of said Section 20, T 90 N, R 35 W to the Point of Beginning.

Also: The East Five Hundred feet of that part of the SE ¼ of Section 18, T 90 N, R 35 W of the 5th P.M. Buena Vista County, Iowa, located south of the South Right of Way of Drainage District No. One (1).

Also: Point of beginning: NE Cor of SE ¼ Sec. 18, T 90 N, R 35 W of the 5th P.M. Buena Vista County, Iowa (this is the middle of the intersection of Jensen St. and Armstrong Rd.) thence West along the North Line of said SE ¼ Two Hundred Ten Feet (210') ; thence South along a line parallel to the East Line of said SE ¼ a distance of Three Hundred Seven Feet (307') , thence East along a line parallel to the North Line of said SE ¼ a distance of Two Hundred Ten Feet (210') to the east line of said SE ¼; thence North along the East Line of said SE ¼ a distance of Three Hundred Seven Feet (307') to the Point of Beginning.

(Ordinance 244)

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 3 - CHARTER

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

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 4 - CORPORATE SEAL

- 4.01 SEAL AND CUSTODY. The council shall provide a seal, in the center of which shall be the words "Newell, Iowa" and around the margin the words "Town Seal", and the same is hereby declared to be the corporate seal. The clerk shall keep the corporate seal in his/her charge.
- 4.02 USE. The corporate seal shall be attached to all transcripts, orders, and certificates which it may be necessary or proper to authenticate.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 5 - ELECTIONS

- 5.01 MUNICIPAL ELECTION. The regular municipal election shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.
(Code of Iowa, Sec. 376.1)
- 5.02 TERMS. Terms of elected officers begin at noon on the first day in January which is not a Sunday or a legal holiday following their election.
(Code of Iowa, Sec. 376.2)
- 5.03 NOMINATIONS. Candidates for elective city offices must be nominated as provided in Chapter 45 of the Code of Iowa.
(Code of Iowa, Sec. 376.3)
- 5.04 PERSONS ELECTED IN CITY ELECTIONS.
(Code of Iowa, Sec. 376.8)
1. In a regular city election held for a city where the council has chosen to have nominations made in the manner provided by Chapter 45 of the Code of Iowa, 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.
- 5.05 TIE VOTE. In case of a tie vote resulting in failure of one candidate to receive a majority vote, the tie shall be determined by lot by the Board of Canvassers.
(Code of Iowa, Sec. 43.75)
- 5.06 CONTEST. A nomination or election to an office may be contested as provided in the Code of Iowa, except the Statement of Intent to Contest must be filed with the city clerk within ten (10) days after the nomination or election. At the trial of a nomination or election, the mayor is presiding officer except when the mayor's nomination or election is contested, in which case the council shall elect one of its members to serve as presiding officer.
(Code of Iowa, Sec. 376.10)
- 5.07 OATHS. Each officer, elective, or appointive, before entering upon his/her duties, shall qualify by taking the prescribed oath and giving a bond when required before noon of the second secular day in January of the first year of the term of which such officers was elected or as provided in Code of Iowa, Sections 63.3 and 63.4.
(Code of Iowa, Sec. 63.1)
1. PRESCRIBED OATH: 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 Newell, Iowa, as now or hereinafter required by law.

(Code of Iowa, Sec. 63.10)

2. **OFFICERS EMPOWERED TO ADMINISTER OATHS:** The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

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

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

5.08 **SURETY BONDS.** The following shall apply to surety bonds of municipal officers:

1. **CONDITIONS.** All city officers and employees, except as otherwise provided, shall be bonded under a blanket bond in accordance with the conditions stated in the Code of Iowa.

(Code of Iowa, Sec. 64.2)

2. **BOND NOT REQUIRED.** Bonds shall not be required of council members.

(Code of Iowa, Sec. 64.1)

3. **REQUIRED.** The Council shall provide by resolution for a surety bond or blanket position bond for the benefit of the City and covering the Mayor, Clerk, Treasurer and such officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

4. **BOND APPROVED.** Bonds shall be approved by the Council.

(Code of Iowa, Sec. 64.19)

5. **BONDS FILED.** All bonds, after approval and proper record, shall be filed with the Clerk.

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

6. **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 and appointive.

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

5.09 **UNAVOIDABLE CASUALTY.** When on account of sickness, inclement weather, or unavoidable absence or casualty an officer has been prevented from qualifying within the prescribed time, he/she may do so within ten days after that fixed time.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 6 - OFFICERS AND EMPLOYEES

- 6.01 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council, unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13(4))
- 6.02 OFFICERS TO BE APPOINTED. The following appointments shall be made:
1. CLERK/TREASURER. The council shall appoint a city clerk/treasurer to perform duties prescribed by State or City law.
(Code of Iowa, Sec. 372.13(3))
 2. POLICE CHIEF. The mayor shall appoint the police chief.
(Code of Iowa, Sec. 372.4)
 3. MAYOR PRO TEM. The mayor shall appoint a council member as mayor pro tem.
(Code of Iowa, Sec. 372.4)
 4. OTHER OFFICERS AND EMPLOYEES. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.
(Code of Iowa, Sec. 372.13(4) & 372.4)
 5. CITY ATTORNEY. The council shall appoint a city attorney to perform as prescribe as prescribed by State or City law.
- 6.03 BOOKS AND RECORDS. The public has the right, upon request, to examine, copy, or publish all books and records required to be kept by law or ordinance, unless the records are required to be kept confidential or this right is limited by other provisions in the Code of Iowa.
(Code of Iowa, Sec. 22.7)
- 6.04 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to his/her successor in office all books, papers, records, documents and property in his/her possession pertaining to his/her office.
- 6.05 CONFLICT OF INTEREST. A city officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for his/her city, unless expressly permitted by law. A contract entered into in violation of this section is void.

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

(Code of Iowa, Sec. 362.5 & 362.6))

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the

outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

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

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

(Code of Iowa; Sec. 362.5(4))

10. Cumulative Purchases. Contracts not otherwise permitted by this section for the purchase of goods or services by a City having a population of two thousand five hundred or less, which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.

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

11. 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))

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

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

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

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

- 6.08 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 by the remaining members of the council, except that if the remaining members do not constitute a quorum of the full membership, section 2" shall be followed. The appointment shall be made within sixty days after the vacancy occurs and shall be for the period until the next regular city election described in Code of Iowa, Section 376.1, unless there is an intervening special election for that city, in which event the election for the office shall be placed on the ballot at such special election. If the council fails to make an appointment within sixty days as required by this subsection, the city clerk shall give notice of the vacancy to the county commissioner and the county commissioner shall call a special election to

fill the vacancy at the earliest practicable date but no fewer than thirty-two days after the notice is received by the county commissioner.

- a. If the council chooses to proceed under this paragraph, it shall publish notice in the manner prescribed by Code of Iowa, Section 362.3, stating that the council intends to fill the vacancy by appointment but that the electors of the city or ward, as the case may be, have the right to file a petition requiring that the vacancy be filled by a special election. The council may publish notice in advance if an elected official submits a resignation to take effect at a future date. The council may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, there is filed with the city clerk a petition which requests a special election to fill the vacancy, an appointment to fill the vacancy is temporary and the council shall call a special election to fill the vacancy permanently, under section “2a”. The number of signatures of eligible electors of a city for a valid petition shall be determined as follows:
 - b. For a city with a population of ten thousand or less, at least two hundred signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.
 - c. The minimum number of signatures for a valid petition pursuant to subparagraph (b) shall not be fewer than ten. In determining the minimum number of signatures required, if at the last preceding election more than one position was to be filled for the office in which the vacancy exists, the number of voters who voted for candidates for the office shall be determined by dividing the total number of votes cast for the office by the number of seats to be filled.
2. SPECIAL ELECTION. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph “a”, the special election may be held concurrently with any pending election as provided by Code of Iowa, section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called by the council at the earliest practicable date. The council shall give the county commissioner at least thirty-two days’ written notice of the date chosen for the special election. The council of a city where a primary election may be required shall give the county commissioner at least sixty days’ written notice of the date chosen for the special election. A special election held under this subsection is subject to Code of Iowa, sections 376.4 through 376.11, but the dates for actions in relation to the special election shall be calculated with regard to the date for which the special election is called. However, a nomination petition must be filed not less than twenty-five days before the date of the special election and, where a primary election may be required, a nomination petition must be filed not less than fifty-three days before the date of the special election.
 - a. If there are concurrent vacancies on the council and the remaining council

members do not constitute a quorum of the full membership, a special election shall be called by the county commissioner at the earliest practicable date. The remaining council members shall give notice to the county commissioner of the absence of a quorum. If there are no remaining council members, the city clerk shall give notice to the county commissioner of the absence of a council. If the office of city clerk is vacant, the city attorney shall give notice to the county commissioner of the absence of a clerk and a council. Notice of the need for a special election shall be given under this paragraph by the end of the following business day.

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

(Code of Iowa, Sec. 372.15)

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

(Code of Iowa, Sec. 63.3)

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

(Code of Iowa, Sec. 21.4)

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

- to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.
- b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
3. Subsection 1 does not apply to any of the following:
 - a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.
 - b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
 4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
 5. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)
 6. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)
 7. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary and is

permitted under Section 21.5 for any of the following reasons, or may be amended from time to time by Code of Iowa:

(Code of Iowa, Sec. 21.5)

- a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
- b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- c. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
- d. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
- e. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- f. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- g. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- h. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.
 - 1. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response

procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.

2. This section shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this section applies and which is contained in such a record.
 - i. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.
 - j. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.
 - k. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection.

However, upon order of the court in an action to enforce this chapter, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.
1. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.
8. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

9. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the Code of Iowa.
(Code of Iowa, Sec. 21.8)

6.12 GIFTS. Except as otherwise provided in Chapter 68B of the Code of Iowa, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.
(Code of Iowa, Sec. 68B.22)

6.13 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use City property owned or leased by the City for any private purpose and for personal gain.
(Code of Iowa, Sec. 721.2(5))

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 7 - MAYOR

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

1. **SUPERVISE DEPARTMENT HEADS.** Supervise and give direction to all city department heads concerning departmental functions. The mayor may examine all department functions and records and call for special reports from department heads at any time.
(Code of Iowa. Sec. 372.14(1))
2. **PRESIDING OFFICER.** Act as presiding officer at all regular and special council meetings. The mayor may call special meetings of the council when necessary to the interests of the city.
(Code of Iowa, Sec. 372.14(1) & (3))
3. **ACTION ON ORDINANCE.** May sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. The Mayor may veto an ordinance, amendment, or resolution within fourteen (14) days after passage by the council. 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. 380.6 & 380.6(2))
4. **REPORTS.** Make oral and written reports to the council at the first meeting of every month which concern municipal affairs, department, and recommendations suitable for council action.
5. **ANNUAL BUDGET.** Prepare and submit annually to the council an itemized budget of revenues and expenditures.
6. **CONTRACTS.** Sign all contracts on behalf of the city when authorized by the council.
7. **REPRESENT CITY.** Represent the city in all negotiations legally entered, unless this duty is otherwise delegated by law or ordinance.
8. **SECURE SERVICES.** Secure special or professional services not available to the city, upon order of the council.

9. **AUTHORIZE LICENSES AND PERMITS.** Under council authorization, sign all licenses or permits, except those designated by law or ordinance to be issued by another municipal officer, or revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.
 10. **REVOKE LICENSES AND PERMITS.** Under council authorization, revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.
 11. **MAYOR PRO TEM.** Designate one member of the council as mayor pro tem.
 12. **ABSENTEE OFFICER.** Provide that the duties of an absentee officer are carried on during the officer's absence.
 13. **REMOVE NUISANCES.** Order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. The order shall be in writing and carried out by a peace officer.
 14. **PROCLAMATION OF EMERGENCY.** Have the authority to take command of the police and govern the City by proclamation, upon making a determination that the time of emergency or public danger exists. Within the City limits the, the mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14(2))
 15. **SPECIAL MEETING.** 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))
- 7.02 **VOTING.** The mayor is not a member of the council and may not vote as a member of the council.
(Code of Iowa, Sec. 372.4)
- 7.03 **COMPENSATION.** The salary of the mayor shall be two thousand dollars \$2,000 per year.
(Code of Iowa, Sec. 372.13(8))
- 7.04 **APPOINTMENTS.** The mayor shall appoint the following officials:
(Code of Iowa, Sec. 372.4)
1. Mayor Pro Tem.
 2. Library Board of Trustees with Council Approval.
 3. City Department Heads with Council Approval.
 4. Police Officers.
 5. Planning & Zoning Commission with Council Approval.

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 8 - MAYOR PRO TEM

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

1. VICE-PRESIDENT. Service as vice-president of the council.
2. PERFORM IN MAYOR'S ABSENCE. Perform the duties of the mayor in case of absence or inability of the mayor to perform his/her duties.
3. LIMITED POWER. Shall not have power to employ or discharge officers or employees that the Mayor has the power to appoint, employ, or discharge without approval of the Council. Official actions of the Mayor Pro Tem when the Mayor is absent or unable to act are legal and binding to the same extent as if done by the Mayor. The Mayor pro tem retains all of the powers of a Council member.
4. VOTING. May vote as a member of the council.

8.02 COMPENSATION. If the mayor pro tem performs the duties of the mayor during the mayor's absence or disability for a continuous period of fifteen (15) days or more, the mayor pro tem shall be paid for that period such compensation as determined by the council, based upon the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 3: ADMINISTRATIVE CODE - LEGISLATIVE

ARTICLE 9 - COUNCIL

9.01 POWERS AND DUTIES. The powers and duties of the council shall be as follows:

1. **GENERAL.** All powers of the city are vested in the council unless otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2(1))
2. **FUNDS.** Apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs may be specially assessed.
(Code of Iowa, Sec. 384.2 (1), 384.16 & 384.38(1))
3. **PUBLIC IMPROVEMENTS.** Make all orders for the doing of public improvements, and award contracts for construction of any public improvements.
4. **CONTRACTS.** Make or authorize all contracts. No contract shall bind or bind or obligate the city unless authorized by the council, and be in writing. Contracts authorized by resolution shall be drawn or approved by the city attorney before they are entered into. Any contracts based upon bidding would require bidding according to the Code of Iowa requirements.
5. **OFFICERS AND EMPLOYEES.** Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.
(Code of Iowa, Sec. 372.13(4&8))
6. **PRESCRIBE COMPENSATION.** By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor does not become effective during the term in which the change is adopted, and the council shall not adopt an ordinance changing the compensation of the mayor, council members, or other elected officers 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. By resolution the council shall prescribe the compensation of appointed city officers and employees.
(Code of Iowa, Sec. 372.13 (8))
7. **RECORDS.** The council shall maintain records of its proceedings.
(Code of Iowa, Sec. 372.13(5))

9.02 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: The council shall exercise its power only by the passage of a motion, a resolution, an amendment, or an ordinance. 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 open session. Such power shall be exercised as follows:

1. APPROVED ACTION BY COUNCIL. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of all the council members. A resolution must be adopted to spend public funds in excess of one hundred thousand dollars (\$100,000) on any one project, or to accept public improvements and facilities upon their completion, and requires an affirmative vote of not less than a majority of all the council members. Each councilperson's vote on an ordinance, amendment, or resolution must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

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

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

(Code of Iowa, Sec. 380.4)

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

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

3. MEASURES BECOME EFFECTIVE. Measures passed by the council, other than motions, become effective in one of the following ways:

- a. If the mayor signs the measure, a resolution becomes effective immediately upon signing; and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(1))

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

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

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

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

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

(Code of Iowa, Sec. 380.6)

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

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

- 1. REGULAR MEETINGS. The regular meetings of the council shall be held on the first Monday of each month at 7:00 p.m. in the Council Chambers, City Hall.
- 2. SPECIAL MEETINGS. Special meetings shall be held upon call of the mayor or upon the written request of a majority of the members of the council submitted to the clerk. Notice of a special meeting shall specify the date, time, place, and subject of the meeting; and such notice shall be given personally or left at the usual place of residence of each member of the council. A record of the service of notice shall be maintained by the clerk.

(Code of Iowa, Sec. 21.4)

- 3. OPEN MEETINGS. All meetings of the council, standing committees and city boards or commissions, or special committees shall comply with the open meeting laws of Iowa.

(Code of Iowa, Chapter 21)

- 4. QUORUM. A simple majority of all councilmembers is a quorum.

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

5. RULES OF PROCEDURE. The council shall determine the rules of its own proceedings by resolution, and the clerk shall keep such rules on file for public inspection.
(Code of Iowa, Sec. 372.13(5))
6. 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)
7. MINUTES. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and the vote of each member present shall be made public.
(Code of Iowa, Sec. 21.3)
8. CLOSED SESSION. A closed session may be held only by affirmative vote of either two-thirds of the council or all of the members present at the meeting and in accordance with Chapter 21.50 of the Iowa Code.
(Code of Iowa, Sec. 21.5)
9. CAMERAS AND RECORDERS. The public may use cameras or recording devices at any open session.
(Code of Iowa Sec. 21.8)
10. ELECTRONIC MEETINGS. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the Iowa Code.
(Code of Iowa Sec. 21.8)
- 9.05 ELIGIBILITY FOR APPOINTMENT. A councilmember is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which the councilmember is elected.
(Code of Iowa, Sec. 372.13(9))
- 9.06 COMPENSATION. The salary of each council member shall be six hundred (\$600.00) per year starting January 1, 2006.
(Code of Iowa, Sec. 372.13(8))

(Editor's Note: Section 9.06 Compensation was amended by Ordinance 211, adopted by Council on April 4, 2005)

9.07 TENTATIVE AGENDA. The clerk shall prepare and post a tentative agenda for each meeting at a place, or places, designated by the council, one of which shall be near the place of meeting at the city hall. The posting shall be made at least twenty-four (24) hours before the meeting except as permitted under state law in case of emergencies.

9.08 SERVING AS CHIEF OF VOLUNTEER FIRE DEPARTMENT. If volunteer fire department for the City serves an area with a population of not more than two thousand (2,000) then a council member may also hold the office of chief of the volunteer fire department, provided that no other person who is not a council member is available to hold such office.

(Code of Iowa, Sec. 372.13(10))

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

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

(Code of Iowa, Sec. 69.16A)

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 10 - CITY CLERK/TREASURER

- 10.01 CREATION OF OFFICE. There is hereby created the office of city clerk-treasurer to be appointed by the city council at the first meeting of January following a regular city election for a two-year term commencing on that date and continuing until a successor is appointed and qualified.
- 10.02 POWERS AND DUTIES. The powers and duties of the city clerk-treasurer shall be as follows:
1. **ADMINISTER OATHS.** Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 63A.2))
 2. **ATTEND MEETINGS.** Attend all meetings of the council and its committees.
 3. **RECORD PROCEEDINGS.** Record and preserve a record of each meeting's proceedings and publish a summary of council proceedings after each regular or special meeting and where applicable indicate whether the Mayor signed, vetoed or took no action on a measure passed by the Council, and whether a measure was repassed after the Mayor's Veto.
(Code of Iowa, Sec. 380.7(1))
 4. **ORDINANCES.** Publish all ordinances immediately after passage and approval by council, and enter each ordinance in an ordinance record book, authenticating each ordinance and certifying as to the time and manner of publication.
(Code of Iowa, Sec. 380.7(3) & 362.3)
 5. **RESOLUTIONS.** Keep an official resolution record book, and enter each resolution therein.
 6. **COUNCIL COMMUNICATIONS.** Keep and date all communications and petitions directed to the council or city, and endorse thereon council action taken on matters presented in such documents.
(Code of Iowa, Sec. 372.13(4))
 7. **CORPORATE SEAL.** Affix the corporate seal to those public documents or instruments as directed by the mayor or council, or as required by law.
(Code of Iowa, Sec. 380.7(4))

8. ELECTIONS. Accept the nomination petition of a candidate for a city office for filing if on its face it appears to have the requisite number of signatures and it is timely filed. The clerk shall deliver all nomination petitions to the county commissioner of elections no later than five o'clock p.m. (5:00) on the day following the last day on which nomination petitions can be filed.
(Code of Iowa, Sec. 376.4)
 9. ISSUE LICENSES AND PERMITS. Issue all council-approved licenses and permits and keep a record of them showing the date, number, to whom issued and for what purpose.
 10. OTHER DUTIES. Perform such other duties as specified by council resolution or ordinance.
 11. NOTIFY APPOINTEES. The clerk shall inform all persons appointed by the Mayor or Council to office in the City government of their position and time at which they shall assume the duties of their office.
- 10.03 CHIEF ACCOUNTING OFFICER. The clerk-treasurer shall be chief accounting officer of the city and:
1. SEPARATE ACCOUNTS. Keep separate accounts for every appropriation, department, public improvement or undertaking.
 2. ACCOUNTS RECEIVED. Keep an account of any cash, investment, account receivable and property received by, due to, or in the custody of the city.
 3. RECEIPT. Give a receipt for all cash or checks received, specifying the date received, from whom and for what account.
 4. ACCOUNTS DISBURSED. Keep accounts for cash disbursed, purchase or contract commitments, and property disposed of or sold by the city, and record each transaction in the correct fund, specifying the date and to whom paid.
 5. BUDGET ACCOUNTS. Maintain the budgetary accounts required by law and as directed by the council.
 6. BUDGET REPORTS. Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
 7. REVENUES FROM CITY UTILITY. The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited promptly in the city's depository and be kept on the city books in a separate account for each and from other funds of the city.
(Code of Iowa, Sec. 384.85)

10.04 CUSTODY OF TREASURY. The clerk-treasurer shall have custody of the treasury and perform the following functions:

1. DEPOSITS. Deposit in banks authorized by the council any money held in his/her custody and belonging to the municipality in amounts not exceeding limits set by the council.
(Code of Iowa, Sec. 453.1)
2. BALANCE ACCOUNTS. Reconcile the bank statements with the city books, and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.
3. INVESTMENTS. Invest all idle funds and other funds as directed by the council in accordance with law.
(Code of Iowa, Sec. 12B.10, 12B.10A, 12B.10B and 12B.10C)
4. PAY CLAIMS. Pay all claims against the city only upon council order or other council authorization.
5. TREASURER. Be treasurer of all boards and commissions.
6. AUTHENTICATE DOCUMENTS. Sign all evidences of indebtedness, coupons, or certificates as required by law.
(Code of Iowa, Sec. 380.7(3))

10.05 CUSTODY OF RECORDS. The clerk-treasurer shall have custody of all records and documents pertaining to the municipality unless otherwise directed by law or ordinance and:

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

1. FILE AND RECORD TRANSACTIONS. File and preserve all receipts, vouchers, and other documents kept or required to be kept so as to prove the validity of every transaction and identity of any person having a beneficial relation thereto.
2. DESTROY OLD RECORDS. Destroy all vouchers and minor records over five (5) years old except those specified for retention by law. Anything that concerns land must be kept permanently.
(Code of Iowa, Sec. 372.13(3&5))

3. **FURNISH COPIES.** Furnish, upon request, to any municipal officer a copy of any record, paper, or public document under the Clerk's control when 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 law or Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those documents or instruments which by ordinance are required to be attested by the fixing of the seal.
4. **CERTIFY MEASURES.** Certify to the county recorder all ordinances establishing zoning district, building lines, or fire limits, and a plat showing each district, lines, or limits.
(Code of Iowa, Sec. 380.11)
5. **BONDS.** Keep a register of all bonds outstanding, and record all payments made of interest and principal.
6. **RECORD APPOINTMENTS.** Keep a record of all appointments, notifying all persons appointed by the mayor or council of such appointments and the time of taking office.
7. **ORDINANCES AND CODES.** Maintain copies of all effective City Ordinances and codes for public use.
8. **ADMINISTER OATHS.** Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 63A.2)

10.06 **PUBLICATION.** The clerk-treasurer shall cause to be published all ordinances, enactments, proceedings, and official notices requiring publication as follows:

1. **TIME.** If notice of an election, hearing, or other official action is required by the municipal code or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.
(Code of Iowa, Sec. 362.3(1))
2. **MANNER OF PUBLICATION.** A publication required by the city code must be in a newspaper published at least once weekly and having general circulation in the city. However, if the city has a population of two hundred or less, or in the case of ordinances and amendments to be published in a city in which no newspaper is published, a publication may be made by posting in three public places in the city which have been permanently designated by ordinance.
(Code of Iowa, Sec. 362.3(1)(b))

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

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

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

1. City Hall
2. Public Library
3. Bank

- 10.08 COMPENSATION. The city clerk-treasurer shall be paid such compensation as specified by resolution of the council.

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

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 11 - CITY ATTORNEY

11.01 POWERS AND DUTIES. The duties of the city attorney shall be as follows:

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

1. **ATTEND MEETINGS.** Attend those meetings of the council at which he/she is requested to be present.
2. **DRAFTS.** Formulate drafts for contracts, forms, and other writings which may be required for the use of the city upon request.
3. **DOCKET AND RECORD OF OPINIONS.** Keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defended by the city attorney accompanied by all proceedings related to said actions.
4. **LEGAL OPINION.** Give his or her opinion in writing upon all questions of law relating to municipal affairs submitted by the council, the mayor, members of the council individually, municipal boards, or the head of any municipal department upon request.
5. **PREPARE ORDINANCES.** Prepare those ordinances which the council may desire and direct to be prepared and report to the council upon all ordinances before their final passage by the council and publication.
6. **REPRESENT CITY.** Act as attorney for the city in all matters affecting the city's interests, and appear on behalf of the city before any court tribunal, commission, or board. He/she shall prosecute or defend all actions and proceedings when so requested by the mayor or the council.
7. **REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.** Not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. He/she shall, however, if directed by the council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of said office or employment.
8. **CERTIFY BONDS.** 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.
9. **REVIEW CONTRACTS AND ORDINANCES.** Make a written recommendation to the council and interested department heads concerning all contracts, documents, authorized power of the city officer, and ordinances submitted to him/her or coming under his/her notice before they go into effect.

10. POWER OF ATTORNEY. Sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
- 11.02 COMPENSATION. The city attorney shall be paid such compensation as specified by resolution of the council.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 4: ADMINISTRATIVE STRUCTURE - ADMINISTRATION

ARTICLE 12 - SUPERINTENDENT OF PUBLIC WORKS

12.01 SUPERINTENDENT OF PUBLIC WORKS. A superintendent of public works shall be appointed by the council to serve at its pleasure. He/she shall work under the direction and supervision of the city council.

12.02 POWERS AND DUTIES. The powers and duties of the Superintendent of Public Works shall be as follows:

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

1. **SUPERVISE WATER AND STORM SEWER INSTALLATIONS.** Supervise the installation and connection of all water pipes and sanitary sewers in the city in accordance with the State Plumbing Code.
2. **INSPECT CONNECTIONS.** Inspect all water connections, sewer connections and sewer interceptors, and maintain records of the same.
3. **PERFORM TAPS.** Make or supervise the making of all taps to water mains.
4. **UNCOVER MANHOLES.** Uncover manholes that are buried, raising them where necessary to keep them accessible.
5. **SHUT OFF WATER.** Shut off water supply when deemed necessary under policies set by the council.
6. **WATER METERS.** Be in charge of the installation and repair of water meters.
7. **COMPLETE WORK.** Finish or correct work on any private sewer connection to the public sewer system as authorized by Section 4.17, Chapter 2, Title II, of this Municipal Code.
8. **RECORDS.** Maintain written records of inspections, of purchases and disposition of equipment, of an up-to-date inventory, and of departmental activities.
9. **REPORTS.** Make to the mayor monthly oral or written reports of departmental activities on or before the first day of each succeeding month.
10. **STREET IMPROVEMENTS.** Shall be superintendent of all improvement upon the streets, alleys and public grounds.
11. **MAKE REPAIRS.** Make all repairs upon the streets, alleys and sidewalks, necessary to keep the same safe and passable and see that they are so kept, and

shall receive all complaints made of a dangerous, impassable or unsafe condition on any street, alley, crossing, bridge or sidewalk in the city.

12. MAINTAIN STREETS AND ALLEYS. Maintain streets and alleys free and clear of all deposits of dirt, waste, grass, wood, brush or other refuse.
 13. SUPERVISE EXCAVATIONS. Supervise the making of all excavations in streets and alleys for laying sewer or water mains, or making of connections to them, see that proper barricades with warning lights are maintained, and that such excavations are refilled and pavement replaced as required by ordinance and subject to his/her approval.
 14. RECORDS. Keep a record of work accomplished by him or herself or under his/her supervision, showing the street, alley or public ground on which work was performed and the name of each laborer.
 15. REPORT. Report to the council all persons refusing to comply with or violating any ordinance in relation to streets, alleys or public grounds.
- 12.03 SUPERVISE OTHER EMPLOYEES. The Superintendent of Public Works shall supervise all other employees as follows:
1. OTHER CITY EMPLOYEES. The Superintendent of Public Works shall supervise the work of all other city employees qualified to perform the duties required of such employees.
- 12.04 COMPENSATION. The Superintendent of Public Works shall be paid such compensation as specified by resolution of the City Council.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 13 - POLICE DEPARTMENT

- 13.01 PURPOSE. A police department is established for the purpose of providing for the preservation of peace and enforcement of the law within the corporate limits of the city.
- 13.02 APPOINTMENTS. The police chief shall be appointed by the mayor, however, the appointment and dismissal of the police chief are subject to the consent of a majority of the council. Other officers shall be selected as directed by the council.
(Code of Iowa, Sec. 372.4)
- 13.03 OATH. Every police officer shall take the oath prescribed in Title 1, Chapter 1, Section 5.07 before entering the duties of his/her office.
- 13.04 QUALIFICATIONS. Any person recruited, selected or appointed as a police officer shall meet the qualifications required by the Code of Iowa, Sec. 80B.11.
- 13.05 TRAINING. All officers shall have received the minimum training by law at an approved law enforcement training school within one year of employment.
(Code of Iowa, Sec. 80.11)
- 13.06 BENEFITS. The following benefits shall be made available to the police officer:
1. UNIFORM ALLOWANCE. A sum per year shall be granted to the Police Chief in order to purchase clothing meeting the standard color, style and quality specified by the city. Police Officers, other than Police Chief, shall receive clothing meeting the standard color, style and quality specified by the city. Replacement of these articles will be done on an as needed basis. Officers shall be responsible for the cleaning and repair of their uniforms. All items identifiable as the official uniform shall be returned to the city by an officer leaving the city's service.
 2. WORKERS' COMPENSATION AND HOSPITAL INSURANCE. The council shall contract to insure the city against any liability for workers' compensation and against any liability for the costs of hospitalization, nursing and medical attention for an officer injured in the performance of his/her duties.
 3. LIABILITY INSURANCE. The council shall contract to insure against liability of the city or any city officer for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

13.07 REMOVAL, DEMOTION AND SUSPENSION. A police officer may be removed, demoted or suspended by the police chief with City Council approval for violation of rules or regulations, and such officer shall have the right to a hearing before the city council. The police chief shall by written rules specify whether suspension, pay penalties or reprimands are penalties for specific types of offenses.

(Editor's Note: Section 13.07 Removal, Demotion, and Suspension was amended by Ordinance 199, adopted by City Council on April 8, 2002)

13.08 POWERS AND DUTIES. The duties of a police chief shall be as follows:
(Code of Iowa, Sec. 372.13(2))

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

11. ACCIDENT REPORTS. To report all motor vehicle accidents investigated to the Iowa Department of Public Safety.
 12. INVESTIGATIONS. To investigate the violation of any laws or ordinance when necessary for the prosecution of the offender.
 13. SUBMIT BUDGET PROPOSAL. To submit to the clerk the budget proposal for his/her department by the date set by the clerk.
- 13.09 COMPENSATION. The compensation of a police chief shall be determined by the council.
(Code of Iowa, Sec. 372.13(4))
- 13.10 RESERVE PEACE OFFICERS. The Council may provide for the establishment of a force of reserve peace officers, and may limit the size of the reserve force.
(Code of Iowa, Sec. 80D.1)
1. TRAINING. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as provided by the Code of Iowa.
(Code of Iowa, Sec. 80D.3)
 2. STATUS. Reserve peace officers shall serve on the orders and at the discretion of the chief of police. While in actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officers.
(Code of Iowa, Sec. 80D.6)
 3. SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all requirements for regular peace officers.
(Code of Iowa, Sec. 80D.8)
 4. UNIFORMS AND BENEFITS. Uniforms and benefits shall be provided to reserve peace officers as required by the Code of Iowa.

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 14 - LIBRARY BOARD

14.01 PUBLIC LIBRARY. The free public library established for the City of Newell is to be known as the Newell Public Library.

14.02 BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees is established and shall consist of seven members to be appointed by the mayor and approved by the council.

(Code of Iowa, Sec. 392.5)

14.03 QUALIFICATIONS. All board members shall be bona fide citizens, over the age of eighteen (18), and residents of the local area. The local area being defined as a radius six miles from the Newell City Hall. There will be seven board members, which consist of five or six members who are residents of the City of Newell, and one or two members from the local area.

14.04 TERMS. The seven board members shall hold office for six years, from the first day of following the establishment of the board. At the board's first meeting, members shall cast lots for the respective terms, reporting the result to the council. All subsequent terms and appointments thereto shall be for six years each, except to fill vacancies.

14.05 VACANCIES. A board position shall become vacant if the trustee moves permanently from the city, or is absent from four (4) consecutive regular board meetings, except in the case of illness or temporary excused absence from the city. Vacancies shall be filled by appointment of the mayor with council approval, and the new trustee shall fill the unexpired term for which the appointment was made.

14.06 POWERS AND DUTIES. The board shall have the following powers and duties:

1. OFFICERS. Meet and elect a Chairperson, Vice-Chairperson, Secretary and Treasurer from its members.
2. RESPONSIBLE FOR LIBRARY. Take charge, control, and supervision of the public library, its appurtenances, fixtures, and rooms for library purposes.
3. DIRECT AFFAIRS. Direct and control library affairs.
4. LIBRARIAN. Employ a librarian and fix the librarian's compensation.
5. OTHER EMPLOYEES. Authorize the librarian to employ assistants and other employees necessary to operate the library properly.

6. REMOVAL. Remove the librarian, assistants, or employees by a two-thirds vote of the board.
 7. SELECT LIBRARY MATERIALS. Select, or authorize the librarian to select, and make purchases of all library materials and supplies, within budgetary units set by the board.
 8. NONRESIDENT USE. Authorize the use of the library by nonresidents of the city and to fix charges thereof.
 9. FUNDS. Have exclusive control of all expenditures for library purposes including all monies available by gift or otherwise within council appropriations for library services.
 10. GIFTS. Accept and control the expenditure of all gifts, devises, and bequests to the library, and require the council to appropriate such monies to the library.
(Code of Iowa, Sec. 392.5)
 11. RULES AND REGULATIONS. Make and adopt, amend, modify, or repeal rules and regulations for the care, use, and management of the library, and prescribe penalties for rule violations.
 12. RECORD. Keep a record of its proceedings.
 13. HISTORICAL ASSOCIATIONS. May make agreements with local county historical associations when applicable, to set apart room for and care for articles of historical or educational interest in the possession of the association, and purchase with library funds such materials necessary to preserve and protect such articles.
- 14.07 POWER TO CONTRACT. The board may contract with any other board of trustees of a free public library and any school, corporation, city, and county. If there is a county library district, the city may contract with it for the use of the library by city residents. Such contract may be terminated at any time by mutual consent of the contracting parties, or by a majority vote of the electors represented by either contracting party.
- 14.08 NONRESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by nonresidents by:
1. TERMS OF LOAN. Lending library materials to nonresidents on the same terms as to residents of the city, or upon payment of a special nonresident fee.
 2. DEPOSITORIES. Establishing depositories of library materials to be loaned to nonresidents.
 3. BOOKMOBILES. Establishing bookmobiles or a traveling library.

4. **BRANCH LIBRARIES.** Establishing branch libraries.
- 14.09 **LIBRARY ACCOUNT.** The council shall appropriate in the general fund a library account to be used for the operation and maintenance of the library. Expenditures shall be paid only on board orders, signed by the president and secretary. The warrant-writing officer is the library treasurer.
- 14.10 **ANNUAL REPORT.** The board shall submit an annual comprehensive report to the council after the close of the municipal fiscal year.
- 14.11 **OPEN MEETINGS.** All meetings of the library board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.
- 14.12 **LIBRARY MATERIALS.** Library materials include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:
- a. A public library.
 - b. A library of an educational, historical, or eleemosynary institution, organization, or society.
 - c. A museum.
 - d. A repository of public records.
- (Iowa Code, Sec. 702.22(1))
- 14.13 **LIBRARY EQUIPMENT.** Library equipment includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in section 14.12 of this Article.
- (Iowa Code, Sec. 702.22(2))
- 14.14 **INJURY TO BOOKS OR PROPERTY.** It shall be unlawful for a person to willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any library materials (i.e. newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the library or reading room), or equipment.

14.15 THEFT OF LIBRARY MATERIALS. The fact that a person has concealed library materials or equipment as defined in sections 14.12 and 14.13 of this Chapter, or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if person conceals or causes to be concealed library materials or unpurchased property, upon the person or among the belongings of another, the finding of the same is also material evidence of intent to deprive on the part of the person concealing the library materials or goods.

14.16 DETENTION AND SEARCH.

1. Persons concealing property as set forth in section 14.15 may be detained and searched by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee, provided that the detention is for a reasonable length of time and that the search is conducted in a reasonable manner by a person of the same sex and according to subsection 2 of this section.
2. No search of the person under this section shall be conducted by any person other than someone acting under the direction of a peace officer except where permission of the one to be searched has first been obtained.
3. The detention or search under this section by a peace officer, person employed in a facility containing library materials, merchant or merchant's employee does not render the person liable, in a criminal or civil action, for false arrest or false imprisonment provided the person conducting the search or detention had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property set forth in section 14.15.

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 15 - PARK BOARD

15.01 PURPOSE. The purpose of this Ordinance is to amend and update the organization and duties of the Park Board of the City.

15.02 PARK BOARD CREATED. A park board is created to advise the council on the needed open-space facilities such as parks, playgrounds, and community facilities for other forms of recreation. It shall plan and oversee city programs and encourage other programs for the leisure time of city residents of all ages.

(Code of Iowa, Sec. 392.1)

15.03. ORGANIZATION. The board shall consist of three (3) members, all citizens of the city, appointed at the beginning of the calendar year. Terms shall be for four (4) years. Vacancies shall be filled by appointment of the mayor with approval of the council for the balance of the term vacated.

(Editor's Note: Section 15.03 was amended by Ordinance 231)

15.04 POWERS AND DUTIES The park board shall have the following powers and duties:

1. ADVISE COUNCIL. Advise the council on park and recreation matters.
2. RECREATION PROGRAMS. Plan and manage city recreation programs.
3. BUDGET. Be limited by the annual budget designated for parks and recreation by the council.
4. REPORTS. Make written activity reports to the council when requested and as the board deems advisable. Its revenues and expenditures shall be reported monthly by the clerk, and a copy be provided to each board member and in the clerk's report to the council.
5. RULES AND REGULATIONS. Make rules and regulations governing the use of parks and other recreational facilities or for the conduct of recreation programs, with approval by the council. The rules shall be posted or publicized for adequate public notice.
6. COMPENSATION. The Park Board members shall receive for compensation \$14.58 per month paid at the end of each calendar year for a total of \$175.00 per year.

(Editor's Note: Section 15.04(6) was amended by Ordinance 219, adopted by City Council on May 7, 2007)

15.05 OPEN MEETINGS. All meetings of the park board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 16 - FIRE DEPARTMENT

16.01 PURPOSE. The Newell Fire Department is established to protect lives and property against fires, prevent and extinguish fires and to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

16.02 MEMBERSHIP.

The Newell Fire Department does not discriminate against race, gender, sexual orientation, etc. Members of the Newell Fire Department shall be appointed by the fire chief, pass appropriate background checks, and are then subject to Council approval. Any person wanting to apply can receive an application from any member of the Newell Fire Department, who will get the application from the Fire Chief, then returned to the Fire Chief once the application has been completed. Upon turning in the completed application, perspective member must pay for the background check before the application approval process can continue. Applications must be picked up by the Fire Chief. A person shall not be eligible for appointment unless such person:

1. Is a citizen of the United States, and is living in the Newell Fire district or working within the corporate limits of the City, as long as the department limit of 27 members has not been reached
2. Is at least eighteen (18) years of age
3. Has a current active Iowa driver's license
4. Is not a drug addict or drunkard. Applicant may be subject to pre-employment drug test
5. Is of good moral character and has not been convicted of a felony as shown from the results of the background check(s)

Newell Fire Department members, once approved by the Fire Chief, department members and City Council members shall have the powers and duties set forth in the Rules and Regulations attached hereto. Upon appointment, each new member shall serve a one (1) year probationary period as set forth in section 16.03 of this Chapter.

16.03 APPOINTMENT FIRE FIGHTERS. With council approval, the Fire Chief shall appoint carefully selected fire fighters for appointment; the fire chief shall obtain a written application from the prospective appointee, a copy of which application shall be provided by the chief to the city council upon the chief's receipt of said application. Each fire fighter's appointment shall be reviewed by the Fire Chief and

brought to a vote by the Fire Department following a one (1) year probationary period. The Fire Chief shall then advise the city council for the results of his/her review, at which time the council shall either approve or reject said fire fighter's continued appointment.

16.04 ELECTION OF OFFICERS.

The members of the department, pursuant to the procedures set forth in the Rules and Regulations in Section 16.10 in this Chapter, shall elect the following officers

1. Fire Chief
2. Assistant Fire Chief
3. Secretary —Treasurer
4. House Foreman
5. Safety Officer
6. Training Officer
7. Assistant House Foreman
8. Assistant Safety Officer
9. Assistant Training Officer

The election of the officers shall be subject to the approval of the City Council.

16.05 POWERS AND DUTIES. Generally, the officers shall be responsible for assisting in practice runs and training of all members. Specifically, the officers shall also have the following powers and duties:

1. Fire Chief; the Fire Chief shall.
 - a. **TERM**. Be elected and approved by the City Council for a term of one (1) year or for the balance of a term if to fill a vacancy. The City Council may remove the Fire Chief by written order setting out the reasons for the removal, which shall be filed with the Mayor. The Fire Chief, before entering upon the duties of his/her office, shall qualify for the office by taking the oath prescribed in Title 1, Chapter 1, Section 5.07 of this Municipal Code. Compensation of the Fire Chief shall be determined by the fire agency with the approval of the City Council.
 - b. **DIRECT DEPARTMENT**. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the

Fire Department shall at all times, be subject to the direction of the Fire Chief. The Fire Chief will take command of the scene at all fires and rescue calls.

- c. **ENFORCE DEPARTMENT REGULATIONS.** Enforce all rules and regulations set forth in Section 16.10 of this Chapter, as established by the Newell Fire Department, for the conduct of the affairs of the Fire Department.
- d. **CONTROL DEPARTMENT PROPERTY.** Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the Fire Department.
- e. **KEEP RECORDS.** Keep records of the Fire Department personnel, operating cost and efficiency of each element of firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type, and location of buildings.
- f. **REPORTS.** Make monthly verbal reports to the Mayor and City Council concerning the general status and efficiency of the Fire Department, the number of calls of service answered during the previous month, and any additional information. He/she shall compile and file with the mayor an annual report summarizing the department's activities for the year and containing recommendations for improvements in the department.
- g. **ENFORCE ORDINANCES AND STATE LAWS.** Enforce all ordinances and, here enabled, state laws regulating the following:
 - i. Fire Prevention
 - ii. Maintenance and use of fire escapes
 - iii. The investigation of the cause, origin, and circumstances of fires
 - iv. The means and adequacy of exit in case of fire from halls, churches, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
 - v. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
- h. **RIGHT OF ENTRY.** Have the right of entry into any building or premises within his/her jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. He/She shall conduct such investigation or inspection that he/she considers necessary in light of state law, regulation or ordinance.
- i. **MAKE RECOMMENDATIONS.** Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
- j. **AID STATE FIRE MARSHAL.** Aid the state fire marshal when requested in the performance of his/her duties by investigating, preventing, and reporting data pertaining to fires.

- k. INVESTIGATIONS. Investigate the cause, origin and circumstances of each fire by which property has been destroyed, damaged, or which results in bodily injury to any person. If death, serious bodily injury or property damage in excess of two hundred thousand dollars (\$200,000.00) occurs, as a result of a fire or if arson is suspected, he/she shall notify the state fire marshal's division immediately. The Fire Chief shall file a report of all fire incidents with the state fire marshal's division in the form required by the state fire marshal.
2. NOTIFY INSURANCE CARRIER. Notify the city's insurance carrier and obtain the carrier's prior approval before undertaking any activity other than fighting fires and training to fight fires.
3. Assistant Fire Chief. The Assistant Fire Chief shall assist the Fire Chief with his/her duties and, in his/her absence, shall officiate for him/her. In case of absence of the Fire Chief and Assistant Fire Chief, the officer next in rank shall be in charge and exercise powers of the chief.
4. Secretary —Treasurer: The secretary —Treasurer shall keep a correct roll of the department and call the same precisely at the hour appointed for meetings. He/She shall keep a correct record of the proceedings of the department and at each meeting shall read the minutes of the proceeding meeting. He/She shall upon request, conduct any correspondence pertaining to the department. It shall be the duty of the Secretary —Treasurer to keep an accurate account of all monies and fines received pertaining to the department and pay all bills approved by the department. He/She shall make an oral report of the same at each meeting. He/she shall have the books audited by a fire board representative annually.
5. House Foreperson: The House Foreperson shall preside at all meetings, following procedures set forth in the Rules and Regulations as describes in Section 16.10 of this Chapter.
6. Training Officer: The Training Officer shall keep track of member requirements. The Training Officer shall be responsible for monthly training in coordination with the Fire Chief and Assistant Fire Chief.
7. Safety Officer: The Safety Officer shall be responsible for the safety of all firefighters at all functions.
8. Assistant House Foreperson: The Assistant House Foreperson shall preside at all meetings in the absence of the House Foreperson.
9. Assistant Safety Officer: In the absence of the Safety Officer, the Assistant Safety Officer shall be in charge of all duties described in the Safety Officer.
10. Assistant Training Officer: In the absence of the Training Officer, the Assistant Training Officer shall be in charge of all duties described in the Training Officer.

- 16.06 ACCIDENTAL INJURY ISURANCE. The council shall contract to insure the city against liability for workmen's' compensation for volunteer fireperson injured in the performance of their duties as fire personnel. All volunteer firepersons shall be covered by the contract to the extent required by law.
- 16.07 LIABILITY INSURANCE. The council shall contract to insure against liability of the city or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the city.
(Code of Iowa, Sec 613.A.2 & 517A.1)
- 16.08 FIRES OUTSIDE THE CITY. The department shall answer calls to fires and other emergencies outside the city limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the city limits.
(Code of Iowa, Sec. 364.4(2 & 3))
- 16.09 MUTUAL AID. Subject to approval by resolution of the City Council, the Fire 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))
- 16.10 RULES AND REGULATIONS. The following Rules and Regulations shall govern the operations of the Newell Fire Department:

1. MEMBERS:

- a. Every active member, at the alarm of fire, shall promptly report to the fire station and assist in getting the apparatus to the fire and in operation. No pumpers will leave the station unless occupied by two (2) members, unless authorized by the Fire Officer in charge, and the member driving shall be qualified in the operation of the pumper. Should the apparatus have departed, all members shall go to the fire. The first member that arrives at the fire station, on an alarm of a fire, shall take command of the department and retain such command until the arrival of the proper officer. Upon arrival at the scene, every active member shall serve at his/her assigned task and assist in any work assigned by his/her commanding officer. He/she shall not leave the fire grounds without permission of the officer in charge!
- b. On orders to pick up at fires, all active members shall assist in breaking, draining and loading the lines and replacing the equipment on the apparatus. They shall report back to the fire station and help put the apparatus and gear in condition for the next run. Members shall forfeit pay if they do not report back to the station and ready apparatus for the next run unless they are approved to leave by the Officer-In-Charge.

- c. Three (3) members must be in the rescue squad before it leaves the station for a rescue call, unless instructed by the Officer.
- d. Lunch committee shall be responsible for starting the trucks at least once a week, the month that they server from January 1 to December 31 of each year.
- e. Every new member must attend schooling for training to respond with the rescue unit. Further, each new member must successfully complete Firefighter I and Hazmat Awareness training within three (3) years of appointment to the Fire Department.
- f. Members absent from a meeting or practice run shall be fined \$0.25, unless absence is approved by a vote of the Fire Department members. Members not wearing designated uniforms to meetings shall be fined \$0.25. Said fines shall be collected and placed in the Fire Department account.
- g. The Fire Department may vote any member a leave of absence up to a duration of three (3) months. Requests for such leave must be submitted and signed prior to the requested leave date. If additional leave is required, another request must be submitted and it shall be voted upon again by the Fire Department.
- h. Any member being absent who does not satisfactory show up to ten (10) meeting nights/ practice runs will be approached by the Fire Chief for explanation of excuse. Members who do not appear to give satisfactory excuse shall forfeit his/her membership in the Fire Department.
- i. Any member may be expelled from the Fire Department for cause by a two-thirds (2/3) vote of the members present at any business meeting or special meeting. Any such expulsion shall be subject to approval by the City Council.
- j. The uniforms of this department shall be such as the members may adopt from time to time. Any NFD uniform shall be worn at all regular meetings.
- k. Each member shall be held personally responsible for all equipment issued to him/her.
- l. All members must wear proper PPE at all fires — Full gear
- m. When members leave the department, all items issued by the Fire Department must be returned.
- n. Under no circumstances shall members of the Fire Department serve or consume alcoholic beverages while performing any function falling under the scope of their duties as a member of the Fire Department.

2. OFFICERS:

- a. The department membership shall hold an annual election of officers on the second Tuesday in December of each year. Members having more than twelve (12) unexcused absences from business / practice meetings will not be eligible to vote at the election of officers at the December meeting. No one will be allowed to hold more than one office at any time. The Fire Chief will break all ties. Absentee ballots may be submitted to the Secretary Treasurer prior to the meeting for elections. A ten (10) day notice shall be given to all members prior to the election to fill a vacancy in an office per paging /Dispatch.
- b. Any vacancies of officers shall be filled by written ballot except when there is but one candidate which election may be by acclamation, nomination, etc.
- c. Any member feeling aggrieved by any decision of an officer in command may appeal to the department at any regular or special meeting, through the Chain of Command as listed in Section 16.17, written, signed, and dated.

3. MEETINGS:

- a. All regular meetings of the Fire Department shall be called to order at 7:00 PM.
- b. The business meetings of the department shall be the second (2m) Tuesday evening of each month. Practice meetings will be held on the fourth (4th) Tuesday evening of each month. When a regular meeting or practice meeting occurs on a holiday, such meetings shall be held on the following Tuesday evening.
- c. The officers of the department shall have the power to call a meeting whenever they deem it necessary or upon the written application of five (5) members, one of them being an officer of the department.
- d. Excuses for Absenteeism — will be approved or denied by a majority vote of the quorum present at the meeting in which it is presented.
- e. A majority of the membership of the department shall constitute a quorum for transacting business.
- f. The proceeding in all cases will be governed by the usual parliamentary rules found in "Cushing's Parliamentary Practice" or "Robert's Rules of Order". The order of business for all regular meetings shall be as follows:

1. Call to Order
2. Roll call
3. Excuses for absenteeism
4. Payment of fines
5. Secretary Report
6. Treasurer's Report
7. Committee Reports
8. Executive Report
 - A. Chief
 - B. Assistant Chief
 - C. Training Officer

9. Old Business
10. New Business
11. Adjourn

The order of business special meetings shall be as follows:

1. Roll call
 2. Transaction of such business as the meeting was called for
 3. Other business may be taken up by a majority vote of the members present
 4. Adjourn
- g. When the presiding officer takes a chair, the officers and members shall take their seats, and at the sound of the gavel, there shall be general silence. Guests will sit at the back of the room. All members, when recognized by the chair, will be entitled to speak, but must confine their remarks to the subject under discussion.
- h. During the continuance of the meeting, strict silence should be observed, the officers and members retaining their respective seats.
- i. The presiding officer shall state every question before the department. He/She shall announce the votes and decisions of the department on all subjects. His/Her decisions on questions or order shall not be debatable unless entertaining doubts thereon and he/she invites it; he/she shall have the privilege of speaking on such questions from the chair. When his/her decision has been appealed from, he/she shall put the question, 'Will the department sustain the chair its decisions?'
- j. All proposed purchases must be printed out for all to see.
- k. When a member wishes to speak on or offer a motion, he/she should be recognized.

1. No member shall interrupt another in his/her speech, unless to call him/her to order, ask him/her a question, or rise to a point of order.

4. AMENDMENTS:

- a. All propositions to alter or amend these Rules and Regulations must be made in writing at a regular monthly meeting specifying the intended alterations or amendments.
- b. Each member at said meeting will be given a copy of the proposed alterations or amendments. Further, any member absent at said regular meeting shall be given a copy at least ten (10) days before the next regular or special meeting.
- c. At the next regular or special meeting said proposed alterations or amendments shall be voted upon by the membership. Said proposal shall pass upon receiving a favorable vote from two-thirds (2/3) of the members present.
- d. Any such proposal, once passed by a favorable vote of the membership, is subject to approval by the City Council.

- 16.11 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or firefighter in the performance of his/her duty at, or going to, or returning from a fire, or while attending to his duties as a member of the fire department.
- 16.12 DAMAGING FIRE DEPARTMENT PROPERTY. It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.
- 16.13 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.
- 16.14 DRIVING OVER FIRE HOSE. It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any Fire Department official.
- 16.15 ASSISTING FIREFIGHTERS. It shall be unlawful for any person to refuse or neglect to assist the firefighter in their duties at any fire when called upon to do so by the Chief of the Fire Department or the officer acting in his place.
- 16.16 SOCIAL MEDIA. No firefighter at any time shall place any information relating to an incident the NFD is involved with on any social media, including but not limited to Facebook, Twitter, Instagram, etc.
- 16.17 CHAIN OF COMMAND. Should there be any concerns or questions regarding any item or incident relating to the NFD shall follow the proper chain of command. The person reporting shall express concerns / questions with at least two (2) officers such as Chief and Assistant Chief.

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

(Editor's Note. Title I, Chapter 5, Article 16 was amended by Ordinance 258 by Council on November 6, 2017)

CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 17 - PLANNING AND ZONING COMMISSION

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

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

CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 18 - BUDGET

18.01 FINANCE OFFICER. The city clerk shall be the finance and accounting officer of the city and shall be responsible for the administration of the provisions of this chapter.

18.02 PREPARATION. The annual operating budget of the city shall be prepared in accordance with the following:

1. ANNUAL BUDGET BY CLERK. The clerk shall be responsible for helping the mayor prepare the annual budget detail of revenues and expenditures, for review and adoption by the council in accordance with directives of the mayor and council.
(Code of Iowa, Sec. 384.16)
2. BOARDS AND COMMISSIONS BUDGETS. All boards, commissions, and other administrative agencies of the city that are authorized to prepare and administer budgets must submit their budget proposals to the clerk for consideration in the proposed city budget no later than December 1 of each year and in such form as may be required by the clerk.
(Code of Iowa, Sec. 384.20)
3. SUBMISSION TO COUNCIL. The clerk shall submit the completed budget proposal to the council no later than February 1 of each year.
4. COUNCIL REVIEW. The mayor and council shall review the proposed budget and may make any adjustments in the budget which they deem appropriate before accepting such proposal for publication of notice, hearing, and final adoption.
5. NOTICE OF HEARING. Upon adopting a proposed budget, the council shall set a date for public hearing thereon to be held before March 15, and cause notice of such hearing and a summary of the proposed budget to be published no less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the county auditor.
(Code of Iowa, Sec. 384.16(3))
6. COPIES OF BUDGET. Not less than twenty (20) days before the date that a budget must be certified to the county auditor and not less than ten (10) days before the 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. PROTEST. At the hearing, any resident or taxpayer of the city may present to the council objections or arguments in favor of any part of the budget for the following fiscal year.

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

8. ADOPTION AND CERTIFICATION. After the hearing, the council shall adopt, by resolution, a budget for at least the next fiscal year; and the clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the county auditor.

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

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

(Code of Iowa, Sec. 384.18)

1. PROGRAM INCREASED. Any increase in the total amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
2. TRANSFER OF APPROPRIATION BETWEEN PROGRAMS. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.

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

3. TRANSFER WITHIN PROGRAMS. When the clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures, he/she shall inform the council; or if the council upon its own investigation so determines, and another account within the same program has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation, which alone or with the other account can provide the needed appropriations, the council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the mayor, as provided by law for resolutions, the clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the council. Thereupon, the clerk shall cause the appropriations to be revised upon the appropriation expenditure ledgers of the city, but in no case shall the total of the appropriation to a program be increased nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

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

4. TRANSFER BETWEEN FUNDS. Transfers between funds may be approved by council resolution or as planned in the budget if permitted or required by law.

CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 19 - FUNDS

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

1. REVENUES. All monies received by the city shall be credited to the proper fund as required by law, ordinance, or resolution.
(Code of Iowa, Sec. 384.3)
2. EXPENDITURES. No disbursements shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, or was properly budgeted and supported by a claim approved by the council.

19.02 SPECIAL FUNDS; CASH FUNDS.

1. PETTY CASH FUND. The clerk shall be custodian of a petty cash fund not to exceed fifty dollars (\$50) for the payment of small claims for minor purchases, collect-on-delivery, transportation charges, and small fees customarily paid at the time of rendering a service. The clerk shall obtain some form of receipt or bill acknowledging payment by the vendor of his/her agent.

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

(Code of Iowa, Sec. 384.9)

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)

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

(Code of Iowa, Sec. 384.89)

- 19.04 INVESTMENT POLICY. The Council shall establish an Investment Policy to comply with the standards set in Chapter 12B of the Code of Iowa. Copies of this Investment Policy shall be distributed to all appropriate officials.

CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 20 - ACCOUNTING

- 20.01 BOOKS OF ORIGINAL ENTRY. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
- 20.02 GENERAL LEDGER. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts, and for recording unappropriated surpluses.
- 20.03 CHECKS. Checks shall be prenumbered and signed by the clerk following council approval, except as provided by Section 20.05 hereof.
- 20.04 BUDGET ACCOUNTS. There shall be established such individual accounts to record receipts by source and expenditures by program, subprogram and activity as will provide adequate information and control for budgeting purposes as planned and approved by the council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates, and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
(Code of Iowa, Sec. 384.20)
- 20.05 IMMEDIATE PAYMENT AUTHORIZED. The council may by resolution authorize the clerk to issue checks for immediate payment of amounts due which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll, and bond principal and interest.
- 20.06 UTILITIES. The clerk shall perform and be responsible for accounting functions of the municipally owned utilities.

CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 21 - FINANCIAL REPORTS

- 21.01 MONTHLY REPORTS. There shall be submitted to the council at the first meeting of each month a report showing the activity and status of each fund, program, subprogram, and activity for the preceding month.
- 21.02 ANNUAL REPORT. Not later than December 1 of each year, there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures, the current public debt of the city, and the legal debt limit of the city for the current fiscal year. A copy of the annual report must be furnished to the Auditor of the State by December 1 of each year.

(Code of Iowa, Sec. 384.22)

CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 22 - PURCHASING

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

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

22.02 COMPETITIVE BIDS FOR PUBLIC IMPROVEMENT CONTRACTS.

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

2. A governmental entity shall have an engineer licensed under chapter Code of Iowa, Chapter 542B or an architect registered under Code of Iowa, Chapter 544A prepare plans and specifications, and calculate the estimated total cost of a proposed public improvement.

22.03 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS. Architectural or engineering design services procured for a public improvement are not subject competitive bid requirements.

22.04 PROHIBITED CONTRACTS. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or as established in Code of Iowa, section 314.1B, a governmental entity shall not divide the public improvement project into separate parts, regardless of intent, if a resulting part of the public improvement project is not let in accordance with section.

22.05 PROCEDURES FOR COMPETITIVE BID LETTING. The City will follow Code of Iowa, Chapter 38 for competitive bid letting pertaining to Bid Security, Notice to Bidders, Bid Security, Award of Contract, Opening and Considering Bids, Delegation of Authority and When a Hearing is Necessary.

22.06 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the amount provided in this section, but is less than the competitive bid threshold established in Section 22.02 of this Code.
2. The City will adhere to the competitive bid quotation threshold dollar amount set by the State of Iowa Bid Threshold Committee and this dollar amount is subject to annual adjustments by the Committee pursuant to Code of Iowa, section 314.1B.
3. a. When a competitive quotation is required, the governmental entity shall make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations may be obtained from contractors after the governmental entity provides a description of the work to be performed, including the plans and specifications prepared by an architect or engineer, if required under Code of Iowa, Chapter 542B or 544A, and an opportunity to inspect the work site. The contractor shall include in the quotation the price for labor, materials, equipment, and supplies required to perform the work. If the work can be performed by an employee or employees of the governmental entity, the governmental entity may file a quotation for the work to be performed in the same manner as a contractor.

- b. The governmental entity shall designate the time, place, and manner for filing quotations, which may be received by mail, facsimile, or electronic mail. The governmental entity shall record the approved quotation in meeting minutes. Quotations approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next meeting of the governing body. The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section, or the governmental entity may reject all of the quotations.
- c. If a public improvement may be performed by an employee of the governmental entity, the amount of estimated sales and fuel tax which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsible bidder. If no quotations are received to perform the work, or if the governmental entity's estimated cost to do the work with its employee is less than the lowest responsive, responsible quotation received, the governmental entity may authorize its employee or employees to perform the work.

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

(Code of Iowa, Sec. 314 1A & Sec. 314.1B)

CHAPTER 7: CITY RECORDS

ARTICLE 23 - CUSTODY OF THE CITY'S PUBLIC RECORDS

- 23.01 RECORDS - CUSTODY AND CONFIDENTIALITY RULINGS. In compliance with Chapter 22, Code of Iowa, the officers and employees bearing the titles named herein shall be in custody of the particular records or class of records assigned to the positions named by this resolution and are directed to familiarize themselves with the requirements of the law in Chapter 68A, as amended. Whenever there is a doubt concerning whether a record is an open or confidential public record the custodian thereof shall withhold the record and immediately ask for an opinion of the city attorney interpreting the law. Every effort shall be made to expedite a decision and all doubts should be resolved in favor of openness.
- 23.02 CLERK'S DUTY - INFORMATION. The city clerk shall obtain and place in the hands of each named custodian a copy of the public records, law and any interpretations available to the city. The clerk shall also keep informed of any amendments or new interpretations and distribute such agenda to the named custodians promptly upon receipt thereof.
- 23.03 CUSTODIANS NAMED FOR SPECIFIED RECORDS.
1. POSITIONS NAMED. The following city positions named shall be custodians of the specific records and related items assigned to each position:
 - a. City Clerk.* Council minutes and proceedings and related papers, ordinance and resolution records, reports filed, surety bonds, deeds, abstracts for city-owned property, petitions, correspondence, special assessment schedules, bond register, all budget papers, accounts, receipts, invoices, purchase orders, warrants/ checks, utility accounting records not in hands of superintendents, personnel records not in hands of a personnel officer.
 - b. Treasurer. (Include as clerk's duties if position is combined) Treasurer's accounts, warrant records, investment records, depository agreements.
 - c. City Attorney (solicitor).* Legal opinions, records of legal cases, investigations.
 - d. Personnel Officer.** Personnel records including applications, medical exams.
 - e. City Engineer (including any consultant). Plans, profiles, other engineering drawings, field notes.
 - f. Police Chief (marshal in one-person department). Investigation, arrest and activity ("blotter") records, fingerprints, MO's, traffic records.

- g. Fire Chief. Inspection reports, incident records, correspondence, etc.
 - h. Cemetery (sexton) (superintendent). Cemetery plats, records of burials, copies, deeds to cemetery lots.
 - i. Librarian. Library circulation and accession lists or records.
 - j. Water Superintendent (operator, in one-person department). Operating records, volume pumped, water quality tests, etc., customer billings if responsible for billing.
 - k. Wastewater Superintendent. Operating records, volume pumped, water quality tests, etc., customer billings.
 - l. Sanitation Superintendent. Billings, activity, cost records.
 - m. Zoning Administrator. Zoning correspondence, maps, plats, petitions, and minutes of board of adjustment.
 - n. Planning Officer. Planning and Zoning Commission minutes, correspondence, logs, plats, studies.
2. CITY CLERK CUSTODIAN. The city clerk shall be custodian of any papers, records or documents that are named for a position where the position is vacant or does not exist and shall be custodian of any records not named until and unless the council amends the foregoing list.

*May withhold papers dealing with anticipated purchases of real property.

**Must withhold "personal" data of officers and employees unless officer or employee permits release.

Name, address, salary and years worked are not "personal".

If there are any questions concerning what personal information can be released then the City may consult with its City Attorney, prior to determine what, if any requested information may be released.

TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

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

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

1. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to materials generating from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by the Code of Iowa.
(Code of Iowa, 455B.301(20))
 - a. Garbage means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
 - b. Refuse means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.
(IAC, 567-100.2)
 - c. Rubbish means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery, or litter of any kind.
(IAC, 567-100.2)
2. "Residential Waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.
(IAC, 567-20.2)

3. "Landscape Waste" means any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2)
4. "Toxic and Hazardous Wastes" means waste materials including, but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes, which require special handling and careful disposal to conserve the environment and protect the public health and safety.
(IAC, 567-100.2)
5. "Yard Wastes" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.
6. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding ten (10) pounds in weight or fifteen (15) cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361(2))
7. "Rubble" means stone, brick, or similar inorganic material.
(IAC, 567-100.2)
8. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.
(IAC, 567-20.2)
9. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
(IAC, 567-20.2)
10. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
(IAC, 567-100.2)
11. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361(1))
12. "Sanitary Disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.
(Code of Iowa, Sec. 455B.301(21))

13. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.
(Code of Iowa, Sec. 455B.301(13))
14. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.
(IAC, 567-100.2)
15. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.
(IAC, 567-20.2)
16. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).
17. "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.
- 1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.
- 1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
- 1.05 OPEN BURNING. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard. No person shall allow, cause or permit open burning of combustible materials. The following shall be permitted exceptions:
(IAC, 567-23.2)

1. DISASTER RUBBISH. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.
(IAC, 567-23.2(3a))
 2. DISEASED TREES. The open burning of diseased trees; however, when the burning of diseased trees causes a nuisance, appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.
(IAC, 567-23.2(3b))
 3. FLARE STACKS. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the EPC of the IDNR.
(IAC, 567-23.2(3c))
 4. LANDSCAPE WASTE. The disposal by open burning of landscape waste originating on the premises; however, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.
(IAC, 567-23.2(3d))
 5. RECREATIONAL FIRES. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the EPC of the IDNR.
(IAC, 567-23.2(3e))
 6. TRAINING FIRES. Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the Executive Director of the EPC of the IDNR receives notice in writing at least one (1) week before such action commences.
(IAC, 567-23.2(3g))
 7. VARIANCE. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the Executive Director of the EPC of the IDNR.
(IAC, 567-23.2(2))
- 1.06 LITTERING PROHIBITED. No person shall discard any litter on or in any water or land, except when and where authorized. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.
(Iowa Code Sec. 455B.363)

- 1.07 OPEN DUMPING PROHIBITED. No person or permit the dumping or depositing of any solid waste ground or into a body or stream of water at any place shall dump or deposit on the surface of the other than a sanitary disposal project approved by the Director of the Iowa Department of Natural Resources (IDNR), unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director or a designee of the IDNR. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.
(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)
- 1.08 TOXIC AND HAZARDOUS WASTES. No person shall 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))
- 1.09 SANITARY DISPOSAL REQUIRED OF OWNER. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. If such accumulation becomes a nuisance, the city may proceed to abate the 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 Title III, Article 10 Nuisance Abatement Procedures or by initiating proper action in district court.
(Code of Iowa, Sec. 657.2)
- 1.10 SEPARATION OF YARD WASTES REQUIRED. All landscape waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or disposed at a City designated landscape waste and tree disposal site (dump site) maintained by the City. As used in this section, "landscape wastes" means any debris such as any vegetable plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, shrubbery, weeds, grass, grass clippings, leaves and garden waste. Tree trimmings, branches, or shrubbery shall be disposed at the City designated landscape and tree disposal site, unless such wood is cut for firewood and neatly stacked in rear or side yard of the property. Any accumulation of landscape waste on the premises, other than in composting bins, for a period of thirty (30) days or more shall be deemed a nuisance and may be treated accordingly.

- 1.11 YARD WASTE SITE DESIGNATED. The City of Newell's official site for disposal of yard waste shall be the City property as designated by signage and located along West First Street, Newell, Iowa.

The City's Yard Waste Site is intended only for the discarding of any vegetable or plant waste, including trees, tree trimmings, branches, brush, weeds, leaves, grass, shrubbery, and yard trimmings. The site is not intended for any type of garbage.

- 1.12 YARD WASTES SITE REGULATED.

1. Generated in City Limits. The City's Yard Waste Site accepts only yard waste items as defined in this Chapter, which are grown or otherwise generated within the corporate limits of the City of Newell, Iowa; except the following restrictions apply to the City designated Yard Waste Site:
 - a. No stumps are allowed to be discarded at this site.
 - b. No trees, tree branches or limbs having a diameter of 12" or greater will be accepted at this site.

- 1.13 PENALTY. Any person who violates Section 1.12 of this Chapter will be subject to a civil penalty of one hundred dollars (\$100.00) per occurrence.

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

1. UNLAWFUL USE OF CONTAINERS. Deposit refuse in any solid-waste containers other than his/her own without the written consent of the owner of such containers.
2. INTERFERE WITH COLLECTORS. Interfere in any manner with solid waste collection equipment or with solid-waste collectors in the lawful performance of their duties, whether such equipment or collectors be those of the city or those of any other authorized waste-collection service.
3. UNLAWFUL DISPOSAL. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. UNLAWFUL COLLECTION. Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract with the city, or possessing a city solid waste hauler permit.
5. INCINERATORS. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

6. SCAVENGING. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
 - a. An exception is the City allows scavenging of unwanted items (not garbage) placed between the curb and sidewalk (parking area or terrace) during City designated “cleanup days”. Scavenging in trashcans, garbage can, a dumpster, or garbage bag is prohibited.
- 1.15 WIND-BLOWN REFUSE. It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.
- 1.16 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES. It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the city without the consent of the owner or tenant in possession thereof. For the purpose of this section vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.
- 1.17 DEBRIS ON STREETS. It shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley or sidewalk or other public place in the city.
- 1.18 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS. It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the city.
- 1.19 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 2 - COLLECTION AND TRANSPORTATION OF SOLID WASTE

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

1. "Solid Waste Collection" shall mean the gathering of solid wastes from public and private places.
(IAC, 567-100.2)
2. "Solid Waste Transportation" shall mean the conveying of solid waste from one place to another by means of vehicle, rail, car, water vessel, conveyor, or other means.
(IAC, 567-100.2)
3. "Residential Premises." A single-family dwelling and any multiple family dwelling up to and including four (4) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of each such apartments or units which may be included in a given housing development.
4. "Dwelling Unit." Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. "Property Served." Any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided by this chapter.
6. "Collectors." Any person authorized by the city to gather solid waste from public and private places.
7. "Recyclable Material" means solid waste determined from time to time by the City to be recyclable including but not limited to plastics, newsprint, corrugated cardboard, tin cans, or glass.

(Editor's Note: Ordinance 265 added definition Recyclable Materials)

- 2.02 COLLECTION SERVICE. The City shall provide for the collection of refuse from residential, commercial, industrial or institutional premises within their jurisdiction which are not exempted by law.
(Code of Iowa, Sec. 455.302)

- 2.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.
- 2.04 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.
- 2.05 FREQUENCY OF COLLECTION. All refuse shall be collected from residential and business premises twice a week except when a holiday falls on a pick up day then there will be no service for that day.
- 2.06 BULKY SOLID WASTE. Bulky solid waste which is too large or heavy to be collected in the normal manner of other refuse may be collected at the discretion of the collector upon request.
- 2.07 RIGHT OF ENTRY. Solid waste collectors are authorized to enter upon private property for the purpose of collecting refuse as required by this chapter. However, solid waste collectors shall not enter dwelling units or other residential buildings.
- 2.08 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his/her own within the City without first obtaining from the City an annual contract in accordance to the following:
(Code of Iowa, Sec. 455B.302)
1. REQUIRED INFORMATION. The following information shall be required on the contract with the city:
- a. Name and address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers.
 - b. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - c. Collection program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - d. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. **INSURANCE.** No collector's contract shall be entered into unless the applicant shall file and maintain with the city, in addition to all other requirements, evidence of satisfactory public liability insurance. This insurance must cover all pertinent operations of the applicant related to the business, equipment and vehicles to be operated in the following minimum amounts:

Bodily injury -	\$50,000 per person
	\$100,000 per occurrence
Property damage	\$25,000 per occurrence

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

3. **PERMIT FEE.** A five-dollar (\$5) fee shall be required of every solid waste hauler, whether or not covered by a city solid waste contract.
4. **CONTRACT NEGOTIATED.** If the council upon investigation finds the collector to be in order and determines that the collector will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the contract shall be negotiated to be effective for a period of at least two (2) years from the date approved.
5. **ANNUAL RENEWAL.** The contract may be renewed upon council review of the contractor's compliance with its terms.
6. **PAYMENT TO COLLECTOR.** The City shall pay the collector by the month the amount due for that month.
7. **CONTRACT NOT TRANSFERABLE.** No contract authorized by this chapter may be transferred to another person without council approval.
8. **OWNER MAY TRANSPORT.** Nothing within this chapter is to be construed as to prevent an owner from transporting solid waste accumulating upon premises owned, occupied or used by the owner, provided such refuse is disposed of properly in an approved sanitary disposal project.
9. **GRADING OR EXCAVATION EXCEPTED.** No contract or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.

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

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

1. The rate for garbage service shall be payable monthly at \$17.00 per month, to be billed to each user of water residential and business, or rural customer. Businesses will also be charged the base rate of \$17.00 per month with the exception that businesses or residences with apartments with large amounts of garbage will be charged a fee determined by the council.

Those customers with dumpsters will be charged a rate per dumpster as follows:

- 1 dumpster = \$34.00
- 2 dumpsters = \$68.00
- 3 dumpsters = \$102.00
- 4 dumpsters = \$136.00

All dumpsters are to be privately owned by the customer, which can be ordered through the City. An option to lease-to-own a dumpster at \$30.00/quarter (or an amount that would pay for the cost of the dumpster) for 4 years could be an option.

(Editor's Note: Section 2.09(1) Schedule of Fees was amended by Ordinance No. 243.)

2. PAYMENT OF FEES. The fees provided shall be due and payable at the office of the clerk on or before the 1st day of the first month following the end of the billing quarter.
 3. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent and a late penalty of 10% the amount due shall be added.
- 2.10 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for solid waste collection services becomes delinquent by more than sixty (60) days:
1. The City may discontinue solid waste collection services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.

2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
- 2.11 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.
- 3.12 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 or alley line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb or alley line within twelve hours (12) following collection.
- 3.13 RECYCLING. Every person owning, managing, operating, leasing or renting a residential or commercial premises will be encouraged to recycle their solid waste. To assist in this recycling effort, the City or Collector will provide for residential properties recyclable totes for the collection of clean and dry recyclable materials designated by the Buena Vista County Recycle Center including-glass food and beverage containers, paper, tin cans, plastic food, beverage, and soap containers, and cardboard. (If a tote is not provided by the City or Collector, then each residential property will provide a recyclable tote for collection of recyclables.) The individual property shall properly sort recyclable materials and place them loose (un-bagged) in the appropriate recyclable totes to be picked up by the City or approved and licensed collectors as may be scheduled. This service will be provided in your monthly service. There will be no limit to the amount of

recyclable properly placed in totes. All collected recyclable materials are required to be delivered to the Buena Vista County Solid Waste Commission's Recycle Center.

2.14 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste and recycling collection service authorized by the City to collect such material.
3. Disposal Site. Dispose of solid waste or recyclable materials within the City at any site which is not zoned and approved for such purposes by the City.
5. Scavenging. Take or collect any solid waste or recyclables which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
6. Mixing" Deposit non-recyclables in a recyclable container.

2.15 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Buena Vista County Solid Waste Commission are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste and recyclables produced or originating within the City.

(Editor's Note: Ordinance 265 added Sections 2.13 Recycling; 2.14 Prohibited Acts; and 2.15 Sanitary Disposal Project)

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 3 - SOLID WASTE DISPOSAL

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

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

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

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

3.04 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only in accordance with explicit instructions first obtained from the Executive Director of the EPC of the Iowa DNR.
(IAC, 567-102.14(2))

- 3.05 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.
(IAC, 567-102.14(1))
- 3.06 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the approved operator are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.
- 3.07 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.
- 3.08 NEW SITE APPROVAL. Prior to the siting of a proposed new sanitary landfill or infectious waste incinerator within the city limits, a request for approval shall be submitted to the council. The applicant shall submit information to the council to demonstrate compliance with the requirements prescribed by Chapter 455B of the Code of Iowa.
(Code of Iowa, Sec. 455B.305A)
- 3.09 OPEN DUMPING PROHIBITED. No person shall cause, allow or permit the disposal of solid waste upon any place within the jurisdiction of the city owned or occupied by him/her unless such place has been designated by the city as a licensed sanitary disposal project, public sanitary disposal project or an approved processing facility.
(Code of Iowa, Sec. 455B. 307)

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 4 - PUBLIC SEWER SYSTEMS

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

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

1. "Sewer System" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this chapter.
(Code of Iowa, Sec. 455B.171(36))
2. "Sewage" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present.
(Code of Iowa, Sec. 455B.171(33))
3. "Public Sewer" means a common sewer which is directly controlled by a public authority.
4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.
5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface and ground water.
6. "Sanitary Sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.
7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.

8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.
(Code of Iowa, Sec. 455B.171(10))
9. "Garbage": shall mean solid wastes from the preparation, cooking and dispersing of food, and from the handling, storage and sale of produce.
10. "Properly Shredded Garbage" means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch to any dimension.
11. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.
12. "Building Sewer" is that part of the horizontal piping from the building wall to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.
13. "Natural Outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
14. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
15. "Contributor" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
16. "Sewer Rental" means any and all rates, charges, fees, or rentals levied against and payable by contributors as consideration for the servicing of said contributors by said sewer system.
17. "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent, or if quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
18. "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the drainage system.

19. "Superintendent" means the person assigned to supervise the sanitary sewage collection system and treatment works.
 20. "B.O.D.": (denoting biochemical oxygen demand) Means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in parts per million by weight.
 21. "pH": Means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. It is used to indicate the concentration of free acid and alkali.
 22. "Suspended Solids": Means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory.
 23. "Storm Drain" or "Storm Sewer" shall mean a sewer which carries storm and surface waters and drainage but excludes sewage and industrial waste, other than unpolluted cooling water.
- 4.03 PRIVATE SEWAGE DISPOSAL LIMITED. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage filtering.
- 4.03 DAMAGING SEWER SYSTEM. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.
(Code of Iowa, Chapter 716)
- 4.04 MANHOLES. No person shall open or enter any manhole of the sewer system, except by authority of the mayor (or superintendent).
(Code of Iowa, Chapter 716)
- 4.05 TREATMENT REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or " other purposes, situated within the City and abutting on any street, alley or, right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (30.5 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.
(Code of Iowa, Sec. 364.12 (3f)) & (IAC, 567-69.3(3))

4.06 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, he/she must obtain a written permit from the clerk. The following shall apply to all permits:

1. APPLICATION. The application shall be filed on blanks furnished by the city and contain the following information:
 - a. Legal description of the property.
 - b. Name of property owner.
 - c. Amount and date of any prior assessment for construction of the public sewers.
 - d. Description of materials to be used and manner of construction.
 - e. The line of the building sewer and place of connection.
 - f. Intended use of the sewer.
 - g. Name and address of the person doing the work.
 - h. Plans, Specifications and other pertinent information.

At the discretion or judgment of the City's Sewer Superintendent, he/she may require the permit application to be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

At the discretion or judgment of the Superintendent, he/she may require the permit application to be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.
3. REVOCATION. The mayor (or superintendent) at any time may revoke the permit for any violation of this chapter and require that the work be stopped. The owner or plumber may appeal such action to the council.
4. FEE. Before any permit is issued, the person who makes the application shall pay a fee of \$5.00 to cover the cost of issuing the permit and supervising, regulating and inspecting the work.

4.07 CONNECTIONS. The owners of all residences and business establishments intended or used for human habitation, occupancy, or uses which abut public sewers must connect their sewage facilities to the public sewers. The following shall pertain to all connections.

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

1. **LICENSE REQUIRED.** Any installation of a private sewer and its connection to a public sewer shall be made by a plumber licensed by this city. The council shall have the power to suspend the license of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the council. The clerk shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the council meeting at which a hearing will be granted.
2. **CONNECTION FEE.** The City shall assess a fee for the initial connection of a sewer line in an amount equal to the total original cost to the City for extending the utility to the property to be served. The City may deduct any portion of this cost which has been previously assessed and paid. The fee for the initial connection of sewer line shall be two hundred fifty dollars (\$250.00) for gravity systems and five hundred dollars (\$500.00) for pressure main systems.
(Code of Iowa, Sec. 384.84(2))

(Editor's Note: Section 4.07(2) was amended by Ordinance 216, adopted on June 5, 2006)

3. **SPECIAL CONNECTION CHARGE.** If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of the public sewers, or has been assessed only as an unimproved lot, the owner shall pay a special connection charge to the city for the use of the public sewers before the permit is issued. The fee amount shall be determined by the council by ordinance.
4. **SEPARATE CONNECTIONS.** In no case shall a joint sewer be allowed where the property abuts on a street, alley or easement in which there is a public sewer. Other buildings in adjacent areas which are required to be connected shall be separately and independently connected to the public sewers unless the council specifically permits joint connections by resolution.
5. **SEWAGE LIFTS.** In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
6. **SEWER TAPS, AT "Y" BRANCH.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, the property owner shall, at his/her own expense, install a "Y" saddle, carefully mortared set into the public sewer at the location specified by the clerk.
7. **WATERCOURSE CROSSINGS.** No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed and where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall

be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end and be adequately supported if more than one pipe length is used.

8. **SURFACE RUNOFF OR GROUNDWATER.** No person shall make connection of roof downspouts, exterior foundation drains, areaways drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- 4.08 **QUALITY OF PIPE AND FOUNDATION.** Building sewer pipes shall be of the best quality, free from flaws, splits or breaks. They shall be laid on a smooth bottom with bell holes cut in the bottom of the trench so that the joining of the bell and the spigot shall be watertight, gastight and root proof. All sewer pipes must be laid in such a manner as to prevent rupture or misalignment by settlement or freezing.
- 4.09 **GRADE.** All sewer pipes shall be laid with a uniform grade from the building to the public sewer system and no offsetting will be allowed without written permission of the superintendent.
- 4.10 **OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be the responsibility of the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- 4.11 **INTERCEPTORS.** Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, garages, and other facilities, when in the opinion of the superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity as provided by the State Plumbing Code, and shall be located so as to be readily and easily accessible for cleaning and inspection.
 1. **REQUIREMENT.** The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
 2. **MAINTENANCE.** All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his/her expense in continuously efficient operations at all times.

- 4.12 EXCAVATIONS. Excavations for sewers shall be dug so to present the least possible inconvenience to the public and to provide for the passage of water along the gutter. Such excavations shall have proper barricades at all times, and warning lights placed from one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise. The excavation must be backfilled in accordance with city specifications as to material and compaction so as to prevent settlement. The plumber must maintain the affected area in good repair to the satisfaction of the council for three (3) months after refilling. No excavation shall be made within six (6) feet of any laid water pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the superintendent.
- 4.13 SEPARATE TRENCHES. The building drain and water service pipe shall be at least ten feet apart horizontally, and shall be separated by undisturbed or compacted earth.
- 4.14 EXCEPTION. The building sewer or building drain may be placed in the same trench with the water service pipe provided the following conditions are met:
1. WATER SERVICE PIPE ABOVE SEWER LINE. The bottom of the water service pipe, at all points, shall be at least twelve inches above the top of the sewer line at its highest point.
 2. WATER SERVICE PIPE ON SHELF. The water service pipe shall be placed on a solid shelf excavated at one side of the common trench. Where ground conditions do not permit a shelf, the pipe may be laid on a solidly tamped backfill.
 3. NUMBER OF JOINTS. The number of joints in the water service pipe shall be kept to minimum.
 4. PRESSURE PROHIBITED. No part of the building sewer or building drain shall be under pressure.
- 4.15 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
(Code of Iowa, Sec. 364.12)
- 4.16 COMPLETION BY CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the private sewer is installed and connected with the public sewer, the superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber ~~he~~ must pay the costs before he/she can receive another permit. The plumber's bond required for a plumber's license shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))

- 4.17 INSPECTION AND APPROVAL. All private sewers and their connections with the public sewers must be inspected and approved by the superintendent before being backfilled. If approval is refused, the plumber or owner must proceed immediately to correct the work so that it will meet with approval.
- 4.18 PROHIBITED DISCHARGE SPECIFIED. No person shall discharge or cause to be discharged any of the following described waters or waste to a public sanitary sewer:
1. **SURFACE WATERS.** Any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters.
 2. **HIGH TEMPERATURE.** Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
 3. **FAT OIL, GREASE.** Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
 4. **FLAMMABLE MATERIALS.** Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 5. **GARBAGE.** Any garbage that has not been properly shredded.
 6. **SOLID OR VISCOUS SUBSTANCES.** Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city's sewage and treatment system.
 7. **SUSPENDED SOLIDS.** Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
 8. **CORROSIVE WASTES.** Any water or wastes having corrosive properties paunch capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of pH between 4.5 and 10.0.
 9. **SLUGS.** Any wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids.

10. NOXIOUS OR MALODOROUS GAS. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
11. TOXIC OR POISONOUS SUBSTANCE. Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, which would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
12. MATERIALS WHICH REACT WITH WATER OR WASTES. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to sewage structures and treatment processes.
13. SPECIAL AGREEMENTS PERMITTED. No statement in this section shall be construed as preventing any special agreement, arrangement or contract between the council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions as to treatment, rate and cost as established by the council.
14. SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interest of the sewer system.
15. SUSPENDED SOLIDS. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
16. ABANDONED SEWER LINES. When a sewer line in a home or business is discontinued or abandoned, the property owner shall dig the line and cap it off so that no fresh water may be discharged into the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his or her approval.
17. UNPOLLUTED WATERS OR WASTES IN SEWERS.
 - A. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

- B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent of utilities. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent to a storm sewer, combined sewer or natural outlet.
 - C. No owner or occupant of any building shall discharge or permit to be discharged into the sanitary sewers any substance which will clog the pipes or joints or interfere unduly with the sewage disposal process.
18. ODOR OR TASTE. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
19. EXCESSIVE BOD, Solids or Flow. Any waters or wastes having (1) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (2) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (3) having an average daily flow greater than two (2) percent of the average sewage flow of the city, shall be subject to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (2) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- 20 UNUSUAL WASTES. Materials which exert or cause:
- A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

21. UNTREATABLE WASTES. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- 4.19 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer system upon the terms and conditions stipulated by resolution of the council.
(Code of Iowa, Sec. 364.4(2&3))
- 4.20 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines located upon the private property of any owner which is in violation of any of the requirements of this article, with the exception of the requirements of Subsection 4.19(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
- 4.21 USE OF EASEMENTS. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 5 - PRIVATE SEWER SYSTEMS

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

1. "Private Sewage Disposal System" means all equipment and devices necessary for proper conduction, collection, storage, treatment and disposal of sewage from a dwelling or other facility serving the equivalent of fifteen (15) persons or less and including building sewers, septic tanks, absorption fields, leaching or seepage pits, privy vaults and subsurface sand filters.
2. "Reasonably Accessible" means a distance from a property to a sanitary sewer of 100 feet but the council may make a determination that up to 250 feet is practical for a connection to a public sewer system in specific circumstances.

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

(IAC, 567-69.1(3))

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

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

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

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

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

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

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

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

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

- 5.08 MAINTENANCE OF FACILITIES. The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all time and at no expense to the city.
- 5.09 DISPOSAL OF WASTE. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any place in the city except where may be designated by the council. The rate or charge for receiving such waste shall be determined by resolution of the council.
- 5.10 ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his/her official capacity.

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 6 - SEWER RENTAL

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

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

- 6.02 RENTAL RATES. Each contributor shall pay a sewer rental in the amount that is equal to the amount of their respective water bill per month for the property served plus a \$9.25 sewer surcharge per month.

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

(Editor's Note: Section 6.02 was amended by Ordinance 232, adopted by City Council on April 5, 2010)

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

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

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

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

- 6.05 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the same terms and conditions, including penalty for late payment, provided for payment for water service. Water service may not be discontinued for failure to pay sewer rental charges.

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

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

1. The City may discontinue sanitary sewer service to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the City Council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice

shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.

2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.

6.07 COMBINED SERVICE ACCOUNT. The city may combine charges for sanitary sewer services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

CHAPTER 3: WATER SERVICES

ARTICLE 7 - PUBLIC WATER SYSTEM

- 7.01 PURPOSE. The purpose of this chapter is to provide for the regulation of the public water system and water meters and the establishment of water rates.
- 7.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.
 2. "Water Main" means a water supply pipe provided for public or community use.
 3. "Water Service Pipe" means the pipe from the water main to the building served.
 4. "Customer" means any person receiving water service from the city.
 5. "Superintendent" means the waterworks superintendent or his/her duly authorized assistant, agent or representative.
- 7.03 MANDATORY CONNECTIONS. All residences and business establishments within the city limits intended or used for human habitation, occupancy or use shall be connected to the public water system if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.
- 7.04 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber.
- 7.05 PERMIT REQUIRED. Before any person makes a connection with the public water system, a written permit must be obtained from the clerk. The following shall apply to all permits:
1. APPLICATION. Application for the permit shall be filed with the clerk on blanks furnished by the city. It shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the clerk.
 2. ISSUANCE. The clerk shall issue the permit, signed by the clerk, and stating the time of issuance, if the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must begin within six (6) months after it is issued. The clerk may at any time

revoke the permit for any violation of this article and require that the work be stopped.

3. FEE. Before any permit is issued the person who makes the application shall pay to the clerk the cover cost of issuing the permit and supervising, regulating and inspection of the work. This fee shall be \$5.00.

7.06 FEE FOR INITIAL CONNECTION. The City shall assess a fee for the initial connection of water lines in an amount equal to the total original cost to the City for extending the utility to the property to be served. The City may deduct any portion of this cost which has been previously assessed and paid. The fee for initial connection of water lines shall be two hundred fifty dollars (\$250.00).

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

(Editor's Note: Section 7.06 was amended by Ordinance 216, adopted on June 5, 2006)

7.07 ABANDONED CONNECTIONS. When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely watertight.

7.08 TAPPING MAINS. All taps into water mains shall be made under the direct supervision of the superintendent and in accord with the following:

1. INDEPENDENT SERVICES. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the council and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. SIZES AND LOCATION OF TAPS. All mains six (6) inches or less in diameter shall receive no larger than three-fourths (3/4) inch tap. All mains over six (6) inches in diameter shall receive no larger than a one (1) inch tap. Where a larger connection than a one (1) inch tap is desired, two (2) or more small taps or saddles shall be used as the superintendent orders. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint of the main.
3. CORPORATION COCK. A brass corporation cock of the pattern and weight approved by the council shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one (1) size smaller than the service pipe.
4. LOCATION RECORD. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the superintendent in such form as required by him/her.

- 7.09 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight type K copper, P.V.C. meeting I.A.P.M.O. specification IS-14-72, or approved cast as to prevent rupture from settlement or freezing. The City furnishes the water service line from the main to the curb stop, at the city's own expense, including labor and material. The property owner furnishes water service line from the curbstop to the water meter at the property owners own expense, including labor and material.
- 7.10 CURB STOP. There shall be installed a main shutoff valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the council. The shutoff valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground. The City will furnish curb stop with raiser.

Repairing of Curb Stops, in cases when the curb stop has quit working:

1. When a homeowner requests the repair of a nonfunctional curb stop or for leaks on their side of the curb stop, it will be the homeowners' expense for all materials, including the curb stop, and labor performed with the approval and supervision of the City.
2. The City will make the repairs of a nonfunctional curb stop if the water needs to be shut off for a delinquent bill or when the billing is between renters/owners.
3. When the curb stop is leaking, when it is on the property owners' side it is the property owners expense and when it is on the City's side it is the City's expense.

(Editor's Note: Ordinance No. 237 amended Section 7.10 by adding subsections 1-3)

- 7.11 INTERIOR STOP AND WASTE COCK. There shall be installed a shutoff valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with the service to the others.
- 7.12 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers in Sec. 4.13 of this Title. Water and sewer lines are to be at least ten (10') feet apart from each other.
- 7.13 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the superintendent has the right to finish or correct the work, and the council will assess the costs to the property

owner or the plumber. Assessments will be collected as provided for in Section 4.21 of this Title.

- 7.14 SHUTTING OFF THE WATER SUPPLY. After giving reasonable notice, the superintendent may shut off the supply of water to any customer because of any substantial violation of this article. The supply shall not be turned on again until all violations have been corrected and the council has ordered the water to be turned on.
- 7.15 TURN ON/RECONNECTION FEE. The fee to turn on water service after it has been shut off due to seasonal vacancy shall be forty dollars (\$40.00). The fee for reconnection due to any reason shall be one hundred fifty dollars (\$150.00).
- 7.16 OWNER RESPONSIBLE FOR MAINTENANCE. It shall be the responsibility of the owner of the property connected to any water main to keep in good repair and free of any leaks, the line from their house to the curb stop, whether in the public right of way or not.
- 7.17 FAILURE TO MAINTAIN. When any curb stop or water service pipe becomes defective and leaks and the owner fails to repair the leak and any damage to street surface resulting from the leak, the city may do so and assess the costs to the property owner and if not paid within 30 days of billing, the clerk shall certify the cost to the county treasurer to be collected in the same manner as taxes.

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

All water-service pipes and their connections to the water system must be inspected and approved in writing by the superintendent before they are covered, and he/she shall keep a record of such approvals. If he/she refuses to approve the work, the plumber or property owner must proceed immediately to correct the work so that it will meet with his/her approval. Every person who uses or intends to use the municipal water system shall permit the superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

- 7.18 WATER MAIN EXTENSION POLICY. A water main extension will be made by the city upon application by any person desiring service to his/her property who signs a contract for such service and pays the cost thereof through a connection charge or otherwise as required by this chapter. No water main will be extended beyond the city limits for commercial or residential purposes unless the applicant agrees to voluntarily petition for annexation simultaneously with such extension where the applicant's property is contiguous to the corporate limits, or agrees to so petition as soon as the applicant's property becomes contiguous to the city limits and files for future use such petition so conditioned. If the applicant does not wish to petition for voluntary annexation, then the rates for water provision shall be one hundred twenty-five (125%) percent as per article 9.03 of this chapter.

Water mains will be extended beyond the city limits for any industrial establishment which will employ ten employees or more within one year of the extension over the above existing employment in the community, without annexation being required if it is shown that the industry needs the tax benefit, or if it is on property not contiguous to the city limits.

If the water superintendent determines that no foreseeable need will occur for a public water main, and so recommends to the city council upon council approval, an applicant for service may be permitted to construct a private main in an undeveloped public right-of-way (i.e. no traveled way or no more than a graded and/or travelled vehicular way), provided the work shall meet the city requirements for installations in the public way, including placement in the standard location, protection of work, quality of construction, and backfilling. Such main shall originate in a meter and be the property of the owner who shall be responsible for maintenance in the same manner as with water service pipes. It shall be a condition of the contract for connection that the city will not reimburse the owner for such a main if it has to be replaced with a public main after five years or more use.

7.19 MAIN EXTENSION CHARGES. Water service shall be provided through an extension of a water main in the following cases:

1. For distances up to 50 feet beyond existing end of a city-owned main, upon request of a person who contracts to immediately tap the main upon the completion of the extension and who can be expected to use water service upon the completion of construction of the residence or commercial building or facility to be served...no connection charge.
2. Where two applicants, one on each side of a street make application at the same time under the same contract conditions as in "1." above, extension will be made for 100 feet...no connection charge.
3. Where a single tap is contemplated by an applicant for an extension exceeding 50 feet and it is not foreseeable that other customer taps will be applied for before construction is begun, the applicant shall deposit with the city clerk a sum equal to the estimated cost of the extension required, as determined by the water superintendent, and enter into a contract providing for the deposit and any future rebates in accordance with the following provisions:
 - a. The city will refund any excess of deposit over the actual cost for the extension.
 - b. For each customer later connected to the main the city will rebate the proportional share (by feet of frontage) as set out in the contract, the cost of the extension to the original applicant, but not in excess of the final payment by that applicant, provided such connections are made within

five years, after which time no rebates shall be paid. However, the applicant shall be entitled to a refund of the unpaid balance of the full amount deposited with the city whenever the revenue derived from the sale of water to customers directly connected to the extension is equal in each of two consecutive twelve (12) month periods within the five years following application to ten (10) percent of the total actual cost of the main extension. Customer is defined as the occupant of a one-family dwelling, a one-family portion of a two-family dwelling, or as a single commercial establishment contracting for water in its own name (and from its own meter).

4. The main extension shall be built to city standards and become the property of the city as it is installed. If the applicant hires the construction, the city shall inspect the work for compliance with city standards and may enforce the specifications.

- 7.20 WATER MAIN CONSTRUCTION STANDARDS. No water tap will be allowed for service to a property except when a public water main runs along the street in front of the property (unless an alley or easement is determined by the city to be the best approach to serving the property) and at least ten (10) feet beyond the side property line, extended, nearest to the supply side of the main.

The tap must be at least four (4) feet beyond that property line, extended, of the abutting property. No public main shall be less than four inches in diameter, but no such four-inch (4") main shall be extended more than two hundred (200) feet and only if no foreseeable and feasible user can be served beyond said 200 feet. The city reserves the right to put in the size of main required for an adequate system of mains in the future to provide fire flow and adequate pressure for reasonably foreseeable customer service. The main shall be installed and of the quality required by specifications adopted by the council upon recommendation of the water superintendent.

- 7.21 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved by the superintendent. If approval is refused, the plumber or property owner must immediately proceed to correct the work in order to meet approval.

CHAPTER 3: WATER SERVICE

ARTICLE 8 - WATER METERS

- 8.01 METERS REQUIRED. All water furnished customers shall be measured through meters furnished and installed by the city.
(Code of Iowa, Sec. 384.84(1))
- 8.02 FIRE SPRINKLER SYSTEM. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.
- 8.03 LOCATION. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.
- 8.04 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter by the city.
- 8.05 METER REPAIRS AND COSTS. Whenever a water meter owned by the city is found to be out of order, the superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the consumer or property owner, then the property owner shall be liable for the cost of repairs.
- 8.06 RIGHT OF ENTRY. The superintendent is permitted to enter the premises of any consumer at any reasonable time to remove or change a meter.
- 8.07 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with a schedule of such fees adopted by resolution of the council.
- 8.08 METER RENTAL. There shall be a fee charged to the property owner for rental of the water meter located on the premises. This fee shall be seventy-five cents \$.75 per quarter.

CHAPTER 3: WATER SERVICES

ARTICLE 9 - WATER RATES

- 9.01 SERVICE CHARGES. Each customer shall pay for water service provided him/her by the city based upon his/her use of water, as determined by meters provided for in Article 8 of this Chapter. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

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

- 9.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

1. First 1,333 gallons used per month @ \$12.00 (minimum monthly bill).
2. Next 2,000 gallons used per month @ \$2.40 per 1,000 gallons.
3. Next 6,666 gallons used per month @ \$2.04 per 1,000 gallons.
4. Next 13,333 gallons used per month @ \$1.20 per 1,000 gallons.
5. Each 1,000 gallons used thereafter per month @ \$1.08 per 1,000 gallons.

(Editor's Note: Section 9.02 was amended by Ordinance 232, adopted by City Council April 5, 2010)

- 9.03 RATES OUTSIDE THE CITY. Water service shall be provided any customer located outside the corporate limits of the city which the city has agreed to serve at 125% of the rates provided in Section 9.02. No such customer, however, will be served unless the customer has signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the council.

(Code of Iowa, Sec. 364.4(2))

- 9.04 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer a deposit conditioned on guaranteeing the payment of bills for services. The deposit shall be refunded at the end of one year provided all charges and bills due have been paid timely and in full. However, the city can require a new deposit upon the occurrence of circumstances requiring a shut off of water service to the customer.

- 9.05 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all new or existing customers who are tenants, or others having no established credit record or who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be one hundred fifty dollars (\$150.00). Deposits of customers having established acceptable credit records for three years shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the city clerk to require a new or larger deposit for the continuation of service. A deposit receipt shall be given the customer at the time of deposit, and a permanent file of such receipts be kept in the office of the city clerk and the deposits placed in a customer guarantee deposits trust fund. The customers who have previously made guarantee deposits in the amounts required under this section shall be deemed to have complied herewith.
- 9.05 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water services is separately metered and paid directly by the tenant, the rental property is exempt for a lien for delinquent charges if the owner or landlord has done the following:
1. The owner or landlord has given written notice to the City utility that the tenant is liable for all charges.
 2. A deposit not exceeding the usual cost of ninety (90) days of water service has been paid to the City by the tenant.
 3. The notice given to the City utility shall contain the name of the tenant responsible for the charges, the address of the property, and the date the tenant is to begin occupying the premises.
 4. If the tenant for which the owner or landowner has given written notice to the city moves from the specified premises, then the owner or landlord shall provide the city with a written notice of the change in occupancy with ten (10) business days after the date when such change occurred. The owner shall also provide the city with written notice of any change in ownership of the specified premises within ten (10) days following the date when such change occurred.
- When the tenant moves from the rental property, the City shall return the deposit to the tenant, provided that all water services charges are paid in full. The lien exemption for rental property does not apply to charges made by the City for repairs to a water service if these repair charges become delinquent.
- 9.06 APPLYING DEPOSIT TO A BILL. If a person fails to pay any amount due for water, penalty or water goods or services as a result of moving out of the premises, the city clerk may draw on the deposit for the amount of the arrears and the balance of the deposit, if any, shall be returned to the last known address of the customer, or to the customer in person. Where the customer pays all amounts due at the time of moving out of the city,

the full amount of deposit shall be paid to the customer in person or by mail. Where the person fails to pay after a turn off the city clerk may draw on the deposit for the amount of arrears, and the balance of the deposit held to apply on the succeeding deposit required at the same or other premises, and water shall not be turned on until the deposit is sufficient to meet the requirements under section 9.04 or 9.05 of this ordinance amendment.

If a deposit is not adequate to pay all arrears at time of the customer's moving from the premises the balance shall be rebilled and the bill sent to the last known address of the customer. Where such rebilling is not paid within 30 days from the mailing of the rebilling, the clerk shall turn the billing over to the city attorney for collection by whatever means the attorney deems appropriate. Where the customer applies for water service at a new premise the past due amount shall be paid and an adequate deposit made before the water may be turned on.

All payments out of the customer guarantee deposit fund shall be by check.

9.07 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the 15th day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 1st day of the following month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of 10% of the amount due shall be added to each delinquent bill.

(Editor's Note: Section 9.07 was amended by Ordinance 232, adopted by City Council April 5, 2010)

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

1. The City may discontinue water service to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall notify of delinquency and inform the account holder of the opportunity for a hearing before the City Council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner

as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.

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

9.09 COMBINED SERVICE ACCOUNT. The city may combine charges for water services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

9.10 SHUTTING OFF WATER. The superintendent, or his/her authorized assistant, may shut off the supply of water to the customer without notice when the customer is found to be using water consuming equipment in a manner adversely affecting the utility's system or its ability to serve others, such as cross-connections, back-siphonage, wastage to the extent of drastically reducing water pressure, or any other action so affecting the safety or proper operation of the system; and the water supply shall not be restored until the customer has corrected the condition. The superintendent may likewise shut off the water supply to a customer for violation of or noncompliance with the rules by said customer or for failure of the customer to permit the superintendent, or his/her authorized assistant, reasonable access to the customer's premises for the purposes enumerated in sections 8.05 and 8.06, provided the superintendent shall have given written notice allowing ten days from date of mailing or personal notice to comply, Sundays or holidays excepted, and such notice shall state that the customer has the right to appeal to the superintendent for an explanation of the action.

- 9.11 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The superintendent shall make a test of the accuracy of any water meter when requested in writing. If it is found that such meter overruns to the extent of two percent or more, the cost of the tests shall be paid by the city, and the city will credit on the next bill the overcharges collected since the last known date of accuracy, not to exceed thirty months. If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.

CHAPTER 3: WATER SERVICES

ARTICLE 10 – WATER USAGE RESTRICTIONS

10.01 WATER USAGE RESTRICTIONS. The City Council may impose restrictions upon the use of water for the watering, sprinkling or irrigation of outdoor lawns, yards, gardens, or landscaped area, or against other none essential use, such as but not limited to filling of swimming or wading pools, washing cars, boats, or other vehicles, driveways or sidewalks during times of emergency caused by a shortage of water supply or when an equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose the restrictions are:

- A. System operating at 85% of pumping capacity; or
- B. Significant decrease in the pumping water level of wells; or
- C. Significant decrease in recovery rate of water level in wells.

In Addition to the above restrictions all water used for irrigation of lawns and grasses shall be limited to the equivalent of 12 inches of rainfall per calendar year. All watering is encouraged to be done from 7:00 pm through 7:00 am and may be required during water shortages. Also, water load out at City Hall may be terminated during the above restrictions.

Any person found to be using water in violation of such restrictions shall be first warned of such violation by dated written notice. An exception may be made for commercial car washes and service station facilities. If such person is found to have violated the restrictions on a second occasion, such person's water service shall be discontinued and shall not be reconnected until a reconnection fee in the amount of one hundred fifty dollars (\$150.00) is paid to the City.

(Editor's Note: Ordinance 241, approved by Council on July 7, 2014 established Article 11 pertaining to water restrictions)

CHAPTER 4: STORM SEWER

ARTICLE 11 - STORM SEWER

11.01 STORM WATER DRAINAGE SYSTEM. The council may declare all or a certain portion of the city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as allowed by the Code of Iowa.

(Code of Iowa, Sec. 384.84)

11.02 REVENUE BONDS. The council may institute proceedings to issue revenue bonds for storm water drainage construction pursuant to the Code of Iowa.

(Code of Iowa, Sec. 384.84A)

CHAPTER 5: EMERGENCY MEDICAL SERVICES

ARTICLE 12 - AMBULANCE SERVICE

12.01 PURPOSE. The voluntary Ambulance Service is established to provide emergency medical care and transportation for persons in need of medical services.

12.02 MEMBERSHIP. Members of the Ambulance Service shall be appointed by the Service Director and/or Supervisor of the Ambulance Service, subject to Council approval. A person shall be eligible for appointment when they have met the following:

1. Must be a licensed Emergency Medical Care Provider and/or wanting to be a certified driver of the Ambulance Service.
2. Must be a citizen of the United States and live or work within a two (2) mile radius of the Ambulance station.
3. Must be at least 18 years of age.
4. Must have a current active Iowa driver's license.
5. Must pass a background check and driver's license check. (Provided and paid for by the City of Newell)
 - a. No previous alcohol or drug convictions within the previous 7 years.
 - b. No felony convictions.
6. Must be able to meet the following requirements for driving an ambulance:
 - a. Review of the Iowa laws regarding emergency vehicle operations
 - b. Review of the Newell Ambulance Service or comparable program's driving policy for first response vehicles, ambulances, rescue vehicles or personal vehicles of an Emergency Medical care provider responding as a member of the service
 - c. Frequency and content of driver's training requirements
 - d. Criteria for lights and/or siren requirements
 - e. Speed limits when responding with lights and/or sirens
 - f. Procedure of approaching intersections with lights and sirens
 - g. Notification process in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle of an emergency medical care provider responding as a member of the Newell Ambulance Service
 - h. Current CPR certification

- i. Current review of radio communication
- j. Completion of a First Aid course if the driver is not an Emergency Medical Care Provider authorized by IBETS.

Newell Ambulance Service members, once approved by the Council, have the powers and duties set forth in the rules and regulations attached hereto. Upon appointment by the Service Director and/or Supervisor and approved by the City Council, each new member shall serve a six (6) month probationary period as in Title I, Chapter 5, Section 16.02 of this Code of Ordinances.

12.03 ELECTION OF OFFICERS. Members of the Ambulance Service, pursuant to the procedures set forth in the rules and regulations, shall elect the following officers:

1. Supervisor
2. Assistant Supervisor
3. Secretary
4. Treasurer

Ballots for officers will be obtained from all members by write in nomination in November of each calendar year. Ballots will be collected by the Secretary and verified by the Treasurer. Results of nominations will be reported following nominations and the top three nominated names will appear on the ballot. Absentee nominations can be given to any officer present at the November meeting if a member is going to be absent for nominations. A nominated member has the right to decline nomination. In the event of all nominated members declining nominations, the position will remain vacant until the next Election of Officers. Voting will occur at the December meeting by paper ballot. Results will be collected and tabulated by the Secretary and verified by the Treasurer and reported immediately. Results of the officer election will be forwarded to the City Council and subject for approval at their regular January meeting. Newly elected officers will begin service starting at the regular January meeting each year.

12.04 POWERS AND DUTIES OF OFFICERS.

1. THE SERVICE DIRECTOR SHALL:

- a. Be appointed by the City Council for a term of one (1) year or for the balance of the term if to fill a vacancy. The Service Director shall perpetually repeat that term until voluntarily resigning or removed by the City Council. The Council may remove the Service Director by written order setting out the reasons for removal, which shall be filed with the Clerk. The Service Director, before entering upon the duties of his/her office, shall qualify for office by taking oath prescribed by Title I, Chapter I, Section 5.07 of this Municipal Code. (They must also have knowledge of the Policy and Procedures of the Ambulance service including Chapter 131 and 132 of the Iowa Code.)

- b. Not have a residency or work requirement like other members of the Newell Ambulance Service if he/she is working within a county wide Emergency Services organization in conjunction with the Newell Ambulance Service.
- c. Work with the Iowa Bureau of Emergency and Trauma Services and be the primary point of contact for the State. The Service Director shall maintain a current roster and comply with all Iowa regulatory requirements.
- d. Ensure accurate and timely billing of services provided by the Newell Ambulance Service. The Service Director shall be responsible for all submissions for billing to be Medicare complaint and will work with a 3rd party vendor for billing if applicable.
- e. Direct department. Be charged with the duty of maintaining the efficiency, discipline and control of the Ambulance Service. Members of the Ambulance Service shall, at all times, be subject to the direction of the Service Director.
- f. Enforce department regulations. Enforce the rules and regulations, policy and procedures, Chapter 131 and 132.
- g. Control department property. Exercise and have full control over the disposition of all ambulance apparatus, tools, equipment and other property used by or belonging to the Ambulance Service and be responsible for ordering all supplies and be responsible for seeing that the supplies are well stocked.
- h. Keep records. Keep records of the Ambulance Service personnel, ensuring that all certification and licensure are current. To monitor the EMS state website for current licensure of all Emergency Medical care providers and drivers of the service. Will do Quality Improvement documents quarterly, reporting to the service the findings of these documents. Will oversee data submissions required by IBETS. Will oversee monthly required equipment and rig checks, routine vehicle maintenance and drug compliance.
- i. Is the contact person for the Mayor and City Council concerning business agreements and regulatory requirements concerning the Newell Ambulance Service?
- j. Appoint carefully selected volunteer Emergency Medical care providers and drivers and discharge them when necessary, all subject to City Council approval.
- k. Be able to make decisions concerning the Newell Ambulance with input from the City Council if necessary. Decisions will be brought before the membership for a vote on items that are not time sensitive however there will be occasional decisions that need to be made prior to the next regular monthly meeting.
- l. Shall conduct any correspondence pertaining to the Newell Ambulance Service.

2. THE SUPERVISOR SHALL:

- a. Be approved by the City Council for a term of one (1) year or for the balance of the term if to fill a vacancy. The Council may remove the Supervisor by written order setting out the reasons for removal, which shall be filed with the Clerk. The Supervisor, before entering upon the duties of his/her office, shall qualify for office by taking oath prescribed by Title I, Chapter I, Section 5.07 of this Municipal Code. (They must also have knowledge of the Policy and Procedures of the Ambulance service including Chapter 131 and 132 of the Iowa Code.)
- b. Assist in direction of the department as outlined in the Service Director's duties. The Supervisor shall oversee the day to day operations of the Newell Ambulance Service. The Supervisor shall run the ambulance meetings and skills verifications in the absence of the Service Director.
- c. Assist in control of department property. Exercise and have full control over the disposition of all ambulance apparatus, tools, equipment and other property used by or belonging to the Ambulance Service and be responsible for ordering all supplies and be responsible for seeing that the supplies are well stocked. The Supervisor shall also be responsible for ensuring routine maintenance is performed on the ambulance at the recommended intervals.
- d. Assist in keeping records. The Supervisor shall complete monthly equipment, rig and drug checks. The Supervisor shall keep records of the meetings when a secretary is not present.
- e. Is the contact person for the Mayor and City Council concerning general status and efficiency of the Newell Ambulance Service. The Supervisor shall be responsible for day to day operations.
- f. Assist in other duties delegated by the Service Director.

3. THE ASSISTANT SUPERVISOR SHALL:

- a. Assist the Supervisor and Service Director in the discharge of their duties and in their absence, shall officiate for the Supervisor.
- b. Assist in other duties delegated by the Service Director or Supervisor.

4. THE SECRETARY SHALL:

- a. Keep a record for the meetings. The Secretary shall, upon request, conduct any correspondence pertaining to the Newell Ambulance Service.

- b. Be responsible for collecting the mail in a timely manner and ensuring that the Service Director or Supervisor receives mail designated for them.

5. THE TREASURER SHALL:

- a. Be responsible for maintaining accurate reports of the finances of the Newell Ambulance Service and submitting those reports to the Officers, Mayor and City Council on a monthly basis.
- b. Be responsible for maintaining a checking and savings account for the Newell Ambulance Service.
- c. Work with the City of Newell to ensure all finances are handle in accordance with all municipal rules and regulations.
- d. Be able to make a purchase of up to \$500 without full membership or City Council approval for necessary items. All checks will require co-signatures of the Service Director and Treasurer prior to being issued. All expenses will be reported to the membership at the following regular business meeting.

12.05 ACCIDENTAL INJURY INSURANCE. The City Council shall contract to insure the City against liability for workman's compensation and against liability for the cause of hospitalization, nursing and medical attention for the volunteers injured in the performance of their duties. This will begin with the sound of the pager for services and end when the volunteer has returned to their home or place of work. This will also extend to cover any time the volunteers spend during authorized training hours.

12.06 LIABILITY INSURANCE. The City Council shall contract to insure against liability of the City of members of the Service for injuries, death, or property damage arising out of and resulting from the performance of service duties during services and authorized training.

12.07 RULES AND REGULATIONS. The following rules and regulations shall govern the operation of the Newell Ambulance Service.

1. MEETINGS:

- a. Meetings are scheduled and held monthly. The third Tuesday is the regular meeting date; however, subject to change if circumstances dictate a change.
- b. Skills competencies will be conducted following the meetings at intervals dictated by the Protocols and CQI program authorized by the Medical Director.
- c. Documentation shall be noted at all meetings and skills competencies of the members in attendance, the proceedings of the meetings, and the skill competencies covered.

2. MEMBERS:

- a. Every newly appointed member shall be in a probation period of six (6) months.
- b. Members can be dismissed from the Ambulance Service by:
 - i. A serious infraction of a service rule or state regulation.
 - ii. A membership majority vote.
 - iii. At the discretion of the Service Medical Director.
 - iv. At the discretion of the City Council.
- c. Members are to record their hours worked on the time sheet located in the ambulance monthly. Time sheets are submitted to the City Council prior to or during their regular monthly meeting. Hours are to be record for call responses, authorized training and special events coverage. Payroll will be completed by the City and distributed to the members following approval by the City Council at their regular June and December meetings.
- d. Members are to maintain active status.
 - i. If a member fails to respond to any calls for service nor attend a monthly meeting for three (3) consecutive months, they will have conference with the Service Director and/or Supervisor to determine their desire to stay as an active member of the Service.
 - ii. If a member fails to respond to a call for service nor attend a monthly meeting for six (6) consecutive months, they will voluntarily resign their position with the Newell Ambulance Service.
- e. Membership shall be limited to a maximum of 10 drivers only and unlimited Emergency Medical Care Providers.

3. GENERAL RULES.

- a. The Ambulance Service is a provisional service which means that if there is not a certified or licensed Emergency Medical Care Provider authorized by IBETS to take the call, the ambulance will not leave the station. If there is only a certified or licensed Emergency Medical Care Provider and no driver the care provider may respond to the call and they will follow Protocols, maintain the patient and wait for the Paramedic service to transfer the patient.
- b. No alcoholic beverages are to be consumed while on duty.

- c. No member shall respond to a call for service or authorized training without abstaining from alcohol consumption for at least 8 hours. Any violation of this will result in immediate disciplinary actions up to and including termination.
- d. Use of illicit drugs will be grounds for immediate dismissal from the Service.
- e. A progressive disciplinary procedure exists and includes:
 - i. Level 1— Verbal warning
 - ii. Level 2 — Written warning
 - iii. Level 3 — Suspension from responding to calls for service or authorized training for one month and a conference with the Service Director and/or Supervisor to determine their desire to stay as an active member of the Service.
 - iv. Level 4 — Immediate termination
 - v. If a violation is egregious enough, it is at the discretion of the Service Director and/or Supervisor to progress to the necessary level of discipline.
- f. All members will adhere to a Code of Conduct and maintain professionalism at all times as representatives of the Newell Ambulance Service.

(Editor's Note: Ordinance 251, was adopted by City Council on May 1, 2017. This ordinance amended Chapter 5, Article 12 – Ambulance Services)

CHAPTER 6: CEMETERY

ARTICLE 13 - CEMETERY REGULATIONS

13.01 CONTROL. The cemetery grounds owned by the City shall be supervised by the Cemetery Superintendent or other council appointee subject to the control of the City Council.

13.02 RULES AND REGULATIONS. The following rules and regulations for the care and management of the cemetery grounds are hereby adopted:

1. Sale by Cemetery Superintendent: Lots in the cemetery shall be purchased from the Superintendent who shall keep plats of the ground and furnish necessary information in regard thereto.
2. Sale by Owner: Persons purchasing lots in the cemetery shall have the ground they purchase secured to them, their family and heirs, for a burial place forever and for the burial of such other persons as they may choose to admit, but the owner of any lot cannot make conveyance thereof to any person without written approval of the Superintendent
3. Payment for Lots: Full payment for lots including perpetual care is to be made in advance to the City Clerk who shall issue a warranty deed for the same.
4. Conveyance: All conveyances or subdivisions of cemetery lots shall be by deed from the City, which deed shall be recorded with the City Clerk in a book kept by the clerk for that purpose.
5. Survey of Lots: No ground in the cemetery shall be sold until it shall have been surveyed and platted, and the plat or plats have been approved by the City Council.
6. Grade of Lots: The grade of avenues, walks and lots shall be established by the Council, and no lot shall be filled above the established grade.
7. Payment: No improvement will be allowed upon any lot or interment made therein until full payment has been made therefore.
8. Corners Marked: All lots shall bear one iron-corner marker with the number of such lot marked thereon.
9. Erection of Monuments: The proprietor of each lot shall have the right to erect any proper headstone, monument or memorial thereon, subject to the approval of the Superintendent.

10. Planting on lots: No trees, shrubs, or other plantings may be planted by the lot owners. Such plantings may be done only by cemetery personnel under the direction of the Superintendent. No trees, shrubs, or other plantings may be removed by the lot owners without prior approval of the Superintendent.
11. Enclosures on Lots: Enclosures around burial lots will not hereafter be permitted to be erected, and the Superintendent is authorized to remove any enclosure heretofore erected, if desired by the owner and to remodel their lots in conformity with these regulations at the expense of the owner.
12. Foundations and Construction:
 - a. The foundations for all monuments, markers, or other above-ground structures permitted at the Newell Cemetery shall meet the following specifications:
 - (1) Foundations shall be constructed of solid stone or concrete, either precast or poured in place.
 - (2) Foundations for markers or comparable small structures shall be constructed on a bed of sand or pebbles and shall be not less than four inches (4") in depth.
 - (3) Monument foundations shall be not less than twelve inches (12") in depth of poured concrete if capped with a precast foundation or not less than sixteen inches (16") in depth if constructed entirely of poured concrete.
 - (4) The top surface of all foundations shall be level.
 - (5) The surface area of each foundation shall be of sufficient size that the foundation extends not less than five inches (5") in all dimensions from the monument, marker or other structure.
 - b. All monuments, headstones, statuary or other memorials erected in the cemetery shall be of real stone, marble, bronze or other material equally substantial and desirable, in the judgment of the Cemetery Superintendent, and shall be kept in good condition and repair.
 - c. Constructions of foundations shall be accomplished by or under the direction of the Cemetery Superintendent. Persons and corporations regularly engaged in and experienced in the construction of monument foundations may construct such foundations in the Newell Cemetery, but such construction shall be subject to the inspection and approval of the Cemetery Superintendent. The Cemetery Superintendent shall cause the

location of all foundations to be staked or marked and all construction shall be contained within the designated area.

- d. Any person or corporation permitted to construct foundations or perform other work in the Municipal cemetery shall, in consideration of the City's grant of access, bear full responsibility and liability for any damage occasioned to any property within the City arising out of the contractor's activities. Private contractors shall hold the City and any lot owner harmless and free from all costs, loss, or expense, including attorney fees, in regard to any personal injury or property damage arising out of the activities of the private contractor.

Before being permitted to perform construction activities in the cemetery, each private contractor shall provide to the City a certificate of insurance issued by a liability insurance company authorized to do business in the State of Iowa, which certificate shall confirm that the contractor has in force general liability insurance providing limits of coverage of at least one hundred thousand dollars (\$100,000.00) for any personal injury or property damage arising from a single event or occurrence.

13. Removal of Unused Material: Material for stone or marble work will not be allowed to remain in the cemetery longer than shall be strictly necessary, and refuse or unused material must be removed as soon as the work is completed. In case of neglect, such removal will be made by the Superintendent at the expense of the lot owner and contractor, who shall be severally responsible.
14. Hedges, Fences, etc.: Hedges, fences and wooden trellis are prohibited.
15. Removal of Unsightly Trees: If any trees or shrubs situated upon any lot shall by means of their roots, branches or otherwise become detrimental to adjacent lots or avenues, or become unsightly or inconvenient to passersby, it shall be the duty of the Superintendent to enter upon such lots and remove such trees and shrubs or such parts thereof as are detrimental, unsightly, or inconvenient. If any lot or structure thereon shall become unsightly through neglect of the owner, it shall be the duty of the Superintendent to enter upon such lot and put the same in proper order and repair and make a reasonable charge for the removal of such structure, trees or shrubs, and the repairs on any lot, which charge shall be paid by the lot owner when notified, and until such charge shall be paid by such lot owner, he/she shall be barred from further use of said lot.
16. Superintendent to Control All Work: All workmen employed in the construction of vaults or tombs, erection of monuments, etc. shall be subject to the control and direction of the Superintendent. All materials brought into the cemetery to be used in improving lots must be transported and deposited within the cemetery in such manner as the Superintendent may direct, and all earthwork and rubbish

accumulated in improving such lots must be removed under his/her direction, at the expense of the proprietor of such lot, and any workman failing to conform to this regulation will not be permitted afterwards to work in the cemetery.

17. Soliciting and Advertising Prohibited in Cemetery: The soliciting for contracts or orders for monuments, headstones, memorials or other work will not be allowed in the cemetery. Signs, notices or advertisements of contractors, stonecutters, undertakers or any other person will not be permitted upon or within the cemetery grounds.
18. Care of lots Supervised: All work in the care of lots shall be done under the supervision of the Superintendent. The avenues and walks will be kept in good condition and the lots clean, but any extra care or work such as planting trees, cultivating flowers or other extraordinary work on lots will only be done at the owner's expense and under the direction of Superintendent.
19. Opening Graves. Graves may be opened and closed only by the Superintendent or his/her designated representative and shall be not less than five feet (5') in depth. No mounds shall be raised upon any grave above the natural surface of the ground, and whenever interments are to be made, the Superintendent shall be given eight (8) working hours' notice during summer months and twelve (12) working hours' notice during winter months in order that he/she may have the graves in readiness.
20. Charges: The City Council shall have the power to enact a schedule of charges for the opening and closing of graves and to make changes of such charges.
21. Permission of Superintendent for Interment: No grave will be opened upon any lot, or interment allowed there, except upon order or permission of the owner of said lot.
22. Compliance with law Prior to Interment: No interment will be permitted in the cemetery, nor in any vault therein, unless the Superintendent is furnished with evidence showing a full and complete compliance with the law governing and relating to interments.
23. Number of Bodies Buried: Only one interment will be allowed in any grave, except in cases of parent and infant child, or twin children, or two (2) children buried at the same time, or two (2) cremations of spouses or parents and child, where the man or the 1st cremation is buried to the west and where the wife or the 2nd cremation is buried to the west.

(Editor's Note: Section 13.02(23) was amended by Ordinance 225, adopted by City Council on March 3, 2008)

24. Disinterment: No disinterment will be allowed without the special permission of the Superintendent, and such disinterment shall be allowed only when he/she has been furnished with proof that the law governing disinterment has been fully complied with.
25. Funeral Procession: All funeral processions, or other processions, while within the grounds, will be subject to the direction and control of the Superintendent. Undertakers must so arrange the time of funerals as to be out of the grounds before dark.
26. Visitors: Visitors will be allowed access to the cemetery at all proper times, and must observe all rules now in force or that may be adopted for the regulation of the grounds.
27. Injury to Flowers, etc.: Visitors must keep on the avenues or walks and not pluck or injure flowers, plants, shrubs or trees, nor remove anything from the grounds.
28. Refreshments not Permitted: No person will be permitted to partake of refreshments on the grounds.
29. Vehicles in Cemetery: Motor vehicles and bicycles operated on cemetery grounds shall be restricted to a speed not greater than fifteen (15) miles per hour. Vehicles shall be operated with due care and only upon cemetery avenues. Snowmobiles, motorcycles and other recreational vehicles, except bicycles, are prohibited on cemetery grounds.
30. Horses not Permitted: Horses will not be permitted in the cemetery.
31. Shooting in Cemetery: Shooting shall not be allowed, and no firearms permitted within the grounds, except at military funerals or on Memorial Day.
32. Children Alone not Permitted: Children twelve (12) years of age and under will not be permitted upon cemetery grounds unless accompanied by parent or guardian.
33. Dogs not Permitted: Dogs will not be permitted within the grounds.
34. Waste and Refuse: No person will be permitted to throw any wastepaper, tin cans or other refuse upon the grounds of the cemetery.
35. Liability for Loss Items: The City shall not be liable for loss of planters, containers, flowers or any other type of memorial.

36. Appeals: Any person aggrieved by a decision or action of the Superintendent shall have the right, upon proper notice to the Superintendent, City Council and other interested persons, to be heard before the Council, which shall determine the propriety of such decision or action by the Superintendent. This provision shall not affect the exercise of any other legal rights held by persons so aggrieved.
37. Extra Work on Lot: Owners of lots may have extra work or repairs done upon their lots by leaving a written order with the Superintendent justifying the work they wish to have performed. The owner will be given an estimate of the cost of such work and, upon the payment thereof in advance, the work insofar as it is consistent with the rules and regulations herein adopted will be performed. In the event the cost of the work exceeds the estimate, the owner will be billed for the excess.
38. Other Rules: The City Council shall have the power to alter avenues and walks and to make such other rules and regulations as it may deem requisite and proper.
39. Vaults: All interments in the Newell Cemetery shall be accomplished by the placement of a vault made of concrete, metal or other suitable material approved by the Cemetery Superintendent, except in the case of infant interments, which may be approved without a vault, in the discretion of the Cemetery Superintendent.
40. Hours Closed. The Newell Cemetery shall be closed to the public from 10:00 p.m. to 6:00 a.m. each day of the week.

(Editor's Note: Section 13.02(40) was added by Ordinance 205, adopted on August 4, 2003)

41. Flowers to Be Removed. Flowers may be put on a gravesite not more than seven (7) days prior to Memorial Day and shall be removed within ten (10) days after, unless attached to a headstone and out of the way from mowing and trimming.

(Editor's Note: Section 13.02(41) was added at time of updating City Code in 2019)

- 13.03 ENFORCEMENT OF RULES. It shall be the duty of the Superintendent to enforce the rules and regulations provided herein.

CHAPTER 7: PARK

ARTICLE 13 – PARK REGULATIONS

14.01 Warden Park:

1. Park closes at 11:00 pm – 6:00 am each day of the week with exception for organized league baseball or softball games or any other organized City approved function.
2. No unauthorized wheeled vehicles
3. No animals allowed in park area

14.02 Madison Grau Tree Park:

1. Park closes at 11:00 pm – 6:00 am each day of the week with exception of organized City approved functions.
2. No unauthorized wheeled vehicles
3. Dogs are allowed on a leash, clean/pick up feces and remove it, no other animals allowed in park area.

(Ordinance 254)

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

CHAPTER 1: MISDEMEANORS

ARTICLE 1 - PUBLIC PEACE

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

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

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

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

(Code of Iowa, Sec. 723.2)

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

1. **FIGHTING.** Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.
(Code of Iowa, Sec. 723.4(1))
2. **NOISE.** Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.
(Code of Iowa, Sec. 723.4(2))
3. **ABUSIVE LANGUAGE.** Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
(Code of Iowa, Sec. 723.4(3))
4. **DISRUPT LAWFUL ASSEMBLY.** Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
(Code of Iowa, Sec. 723.4(4))
5. **FALSE REPORTS.** By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
6. **DISRESPECT OF FLAG.** Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.
(Code of Iowa, Sec. 723.4(6))
7. **OBSTRUCT USE OF STREETS.** Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
(Code of Iowa, Sec. 723.4(7))
8. Who loiters, prowls, or wanders upon private property of another, at any time, without visible and lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without lawful purpose for being on the property.

9. Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.
10. FUNERAL OR MEMORIAL SERVICE. A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:
 - a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service, or participating in the funeral procession.
 - b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

- 1.08 TEMPORARY CIVIL DISORDER. The following shall apply:

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

1. DECLARATION. The mayor may declare a state of civil disorder within the city or its parts if the mayor has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.

2. TEMPORARY RESTRICTIONS. The mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the city is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.
 - c. Order the cessation of the sale or other distribution of explosives or flammables.
 - d. Order the closing of all or some public parks, public streets or other public places during specified hours.
 - e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.
 3. TERMINATION. Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the mayor's declaration of civil disorder, or upon his/her declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the mayor may be extended by successive resolutions of the council for additional time periods. The period of any one extension shall not exceed five (5) days.
- 1.09 PARADES. No person shall conduct or cause any parade on any street except as provided in this section.
1. DEFINITION. "Parade" shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized manner, or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
 2. PERMIT. No parade shall be conducted without a written permit obtained from the mayor or police chief in the mayor's absence. Such permit shall state the time, date and general route of the parade, and no permit fee shall be required. The written permit granted to the sponsors or organizers of the parade shall be permission for participants invited by the permittee to parade. Any denial of a permit may be appealed to the Council.

3. **PARADE NOT A STREET OBSTRUCTION.** Any parade authorized by a permit and in which the persons are lawfully participating shall not be deemed a street obstruction, notwithstanding the provisions of any other ordinance to the contrary.
 4. **CONTROL BY POLICE AND FIREMEN.** Parade participants shall be subject at all times to the lawful orders and directions of police and fire department members in the performance of their duties.
- 1.10 **NOISE GENERALLY.** It is a violation to disturb the peace with excessive, loud or unusual noise by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking device or noisemaker.
- 1.11 **TIRE NOISE.** It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud or unusual noise to come from the tires of said vehicle.
- 1.12 **LOUD, UNNECESSARY OR UNUSUAL NOISE:** Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person or normal sensitivities residing in the area.
- 1.13 **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 a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.
(Code of Iowa, Sec. 708.7)
 - (c) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.
(Code of Iowa, Sec. 708.7)
 - (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 act 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.

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

1.14 DISORDERLY HOUSE.

1. Definition. The term “disorderly house” means any structure or any room therein, or any part of the premises adjacent therefrom, in or upon which occurs any disorderly conduct as defined in Section 1.05 of this Article or any of the following prohibited activities:
 - a. The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
 - b. Gambling in violation of Chapter 99B of the Iowa Code;
 - c. Dispensing, selling or consumption of an alcoholic beverage in violation of Chapter 123 of the Iowa Code;
 - d. Acts of prostitution, pimping or pandering as defined in Chapter 725 of the Iowa Code;
 - e. Engaging in a massage therapy business without a license.
2. Keeping a Disorderly House. It is unlawful for any person to knowingly keep a disorderly house as defined in this section. For purposes of this section, “keep” means ownership or having the control of a structure or a room therein or any part of the adjacent premises.
3. Frequenting or Being Found in a Disorderly House. It is unlawful for any person to frequent or be found in a disorderly house as defined in this section.

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

CHAPTER 1: MISDEMEANORS

ARTICLE 2 - PUBLIC MORALS

- 2.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public morals and providing for their abatement.
- 2.02 PROSTITUTION. It shall be unlawful for any person to engage in, assist, or in any manner promote prostitution within the city.
- 2.04 INTOXICANTS AND INTOXICATION. The following shall be unlawful:
1. ILLEGAL KEEPING OF INTOXICANTS. To operate, conduct, or allow to be operated a place where intoxicating liquor is illegally kept, sold or given away.
 2. CONSUMPTION IN PUBLIC PLACES. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated in a public place.
(Code of Iowa, Sec. 123.46)
 3. SIMULATE INTOXICATION. A person shall not simulate intoxication in a public place.
(Code of Iowa, Sec. 123.46)
- 2.05 INDECENT EXPOSURE. No person shall expose those parts of his or her body listed herein to another in any public place, or in any place where such exposure is seen by another person or persons in any public place.
1. PROHIBITION. Exposure of the following in a public place is prohibited:
 - a. A woman's nipple, or aureole, or full breast, except as necessary in the feeding of any infant under the age of thirty-six (36) months.
 - b. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting those body parts of an infant of either sex.
 2. EXEMPTION. This section shall not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or other such places where such exposures occur incident to the prescribed use of those facilities, nor shall it apply to exposures occurring in live stage plays, live theatrical performances, or

live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

2.06 MARIJUANA AND DRUG PARAPHERNALIA:

1. **POSSESSION OF MARIJUANA** It is unlawful for any person, knowingly or intentionally, to possess marijuana as defined in Chapter 124 of the State Code of Iowa unless same was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of said practitioner's professional practice or otherwise authorized by Chapter 124 of the State Code of Iowa.
2. **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 State Code of Iowa, as it now exists or is hereafter amended.
3. **DRUG PARAPHERNALIA DEFINED.** The term "drug "paraphernalia" as used in this chapter means all equipment, products and materials of any kind which are used, or intended to be used, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, injecting, containing, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the State Code of Iowa. It includes, but is not limited to:
 - a. **Growing Kits.** Kits used, intended for use, or designed for use in planning, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - b. **Processing Kits.** Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing control substances.
 - c. **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.
 - d. **Testing Equipment.** Testing equipment used, intended for use, or designed for use in the identifying or in analyzing the strength, effectiveness or purity of controlled substances.
 - e. **Scales.** Scales and balances used, intended for use, or designed for use in weighting or measuring controlled substances.
 - f. **Diluents.** Diluents and adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting controlled substances.

- g. Separators-Sifter. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
 - h. Mixing Devices. Blenders, bowls, containers, spoon, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
 - i. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
 - j. Storage Containers. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances
 - k. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use in parenterally injecting controlled substances into the human body.
 - l. Ingesting - Inhaling Devices. 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:
 - 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - 2. Water pipes;
 - 3. Carburetion tubes and devices;
 - 4. Smoking and carburetion masks;
 - 5. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - 6. Miniature cocaine spoons and cocaine vials;
 - 7. Chamber pipes;
 - 8. Carburetor pipes;
 - 9. Electric pipes;
 - 10. Air drive pipes;
 - 11. Bongs;
 - 12. Ice pipes or chillers;
4. 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.
- a. Statements. Statement by an owner or by anyone in control of the object concerning its use.

- b. Prior Convictions. Prior convictions, if any, of an owner, or anyone in control of the object under any State or Federal law relating to any controlled substances.
- c. 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 State Code of Iowa.
- d. Proximity to Substance. The proximity of the object to controlled substances.
- e. Residue. The existence of any residue of controlled substances on the object.
- f. 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/she knows, or should know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the State Code of Iowa.
- g. 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 State Code of Iowa, Should not prevent a finding that the object is intended for use, or designed for the use as drug paraphernalia.
- h. Instructions. Instructions, oral or written, provided with the object concerning its use.
- i. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
- j. Advertising. National and local advertising concerning its use.
- k. Displayed. The manner in which the object is displayed for sale.
- l. Licensed Distributors 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.
- m. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sale of the business enterprise.
- n. Legitimate uses. The existence and scope of legitimate uses for the object in the community.
- o. Expert Testimony. Expert testimony concerning its use.

5. **POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use, or posses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, 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.
6. **MANUFACTURE, DELIVERY OR OFFERING FOR SALE.** It is unlawful for any person to deliver, possess with intent to deliver, manufacture with the 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, or under 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, 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.
7. **PENALTIES.** Any person, company, or corporation violating any provisions, sections, or paragraph of this Article shall be guilty of a simple misdemeanor, and upon conviction thereof be subject to a fine of not more than five hundred dollars (\$500.00) or be imprisoned for not more than thirty (30) days. Each time a violation occurs shall constitute a separate offense.
8. **INHALING TOXIC VAPORS AND CHEMICALS.**
 - a. **Huffing, Possession, Purchase and Use of Substances for Huffing and Aiding Others in the Use of Substances for Huffing Prohibited.** No person shall knowingly smell or inhale the fumes of toxic vapors, whether synthetic or organic, for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system. The actions in the preceding sentence are sometimes referred to as “huffing”. No person shall knowingly possess, buy, or use any such substance for the purposes described in this section, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this section. This section shall not apply to the inhalation of anesthesia or other substances for prescribed medical or dental purposes.
 - b. **Possession of Use of Inhalants Not Used in Accordance With Prescription or Manufacturer’s Instructions Prohibited.** No person shall use or possess an aerosol spray product or other inhalant that is not used pursuant to the instructions or prescription of a licensed healthcare provider, or that is not used pursuant to the manufacturer’s label instructions, for the purposes described in Section a of this Section 8.

- c. Use and Possession of Inhalant Paraphernalia With Intent to Use Prohibited. No person shall knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce a toxic vapor into the human body.
- d. Inhalant Paraphernalia Defined. “Inhalant paraphernalia,” as used in Section c of this Article, means any product, implement, or device used, intended to be used, or designed to be used to inhale or ingest the fumes of toxic vapors as prohibited in Section a of this Section 8.

Editor’s Note: Section 2.06(8) was approved by City Council on January 7, 2013)

CHAPTER 1: MISDEMEANORS

ARTICLE 3 - MINORS

3.01 DEFINITIONS. The following terms shall have the meanings defined below:

1. "EMERGENCY ERRAND" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident, other accidental injury or serious illness, or any other situation requiring immediate action to prevent further serious illness, bodily injury or loss of life.
2. "KNOWINGLY" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable community standard of adult responsibility through an objective test. It shall therefore, be no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
3. "LEGAL AGE" shall be as set forth in section 123.3(24) and 123.47 of the Code of Iowa.
4. "MINOR" shall mean any unemancipated person less than eighteen (18) years of age.
5. "NON-SECURED CUSTODY" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing non-secure custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents, or other responsible adult, or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
6. "PUBLIC PLACE" shall include shopping centers, parking lots, parks, playgrounds, streets, alleys, sidewalks dedicated to public use; and shall also include such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access.

7. For purposes of this chapter, a vehicle or other conveyance is considered to be a public place when in the areas defined above.
 8. "RESPONSIBLE ADULT" means a parent, guardian or other adult specifically authorized by law, or authorized by a parent or guardian to have custody or control of a minor.
 9. "UNEMANCIPATED" means unmarried and still under custody or control of a responsible adult.
- 3.02 MINORS IN TAVERNS. It shall be unlawful for any person under legal age to enter, remain in, or frequent a business establishment holding a retail liquor or beer permit unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods.
- 3.03 SUPPLYING LIQUOR TO MINORS. It shall be unlawful for any person to sell, give or otherwise supply liquor or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by a physician or dentist for medicinal purposes.
(Code of Iowa, Sec. 123.47)
- 3.04 CURFEW. A curfew is established to regulate the hours minors can be or remain upon or travel, loiter wander, stroll or play upon any of the alleys, streets, public places, places of business, places of amusement, buildings, vacant lots, or other unsupervised places in this city. The following shall pertain to the curfew:
1. TIME LIMITS. It is unlawful for any minor to be or remain in or upon any of the alleys, streets or public places or places of business and amusement, buildings, vacant lots, or other unsupervised places in the city Sunday nights through Thursday nights: From 11:00 p.m. until 6:00 a.m. of the following day and on Friday nights and Saturday nights: From 12:00 midnight until 6:00 a.m., to the early morning hours on Saturday and Sunday, respectively.
 - a. The Newell Warden Park shall be closed to the public from 11:00 pm – 6:00 am each day of the week with exception for organized league baseball or softball games or any other organized City approved function.

(Editor's Note: Section 3.04(1a) was added by Ordinance 206, approved by Council on August 4, 2003)

2. EXCEPTIONS. The following are exceptions to the curfew:
 - a. The minor is accompanied by a responsible adult.
 - b. When the minor is on the sidewalk or property where the minor resides, or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - c. The minor is present at or is travelling between home and one of the following:
 1. Minor's place of employment in a business, trade or occupation, in which the minor is permitted by law to be engaged, or, if travelling, within one hour after the end of work.
 2. Minor's place of religious activity, or, if travelling, within one hour after the end of the religious activity.
 3. Governmental or political activity, or, if travelling, within one hour after the end of the activity.
 4. School endorsed activities, including parent-sponsored activities and Community Education sponsored activities organized in cooperation with the school, or, if travelling, within one hour after the end of the activity.
 5. Assembly such as a march, protest, demonstration, sit-in; or meeting of an association for the advancement of economic, political, religious or cultural matters; or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly, or, if travelling, within one hour after the end of the activity.
 - d. The minor is on an emergency errand for a responsible adult.
 - e. The minor is engaged in interstate travel through the city beginning, ending, passing through Newell, Iowa, when such travel is by direct route.
3. RESPONSIBILITY OF ADULTS. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the city within the time periods prohibited by this Section, unless the minor's presence falls within one of the above exceptions.

4. ENFORCEMENT.

- a. Determination of age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a police officer on the street shall, in the first instance, use his/her or her best judgment in determining age.
- b. Grounds for arrest. Conditions of custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the Chapter; refuses to provide proper identification or identify the person's self; or constitutes an immediate threat to the person's own safety or the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
- c. Notification of responsible adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
- d. Minor without adult supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor within a reasonable period of time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child, or another adult person who is known to the child.

5. PENALTIES

- a. Responsible adult's violation - Simple misdemeanor. Any responsible adult as defined in this Chapter who knowingly allows a minor to violate any of the provisions of this Section shall be guilty of a simple misdemeanor, and upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

b. Minor's violation - Simple misdemeanor. For a minor's violation of any of the provisions of this Chapter, the minor shall be guilty of a simple misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed five hundred dollars (\$500.00). As an alternative, the Court may order the minor to perform community service if the minor presents an acceptable plan of community service prearranged with a willing public or non-profit private agency, or if the Court can otherwise arrange such a plan.

- 3.05 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, posses, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.
(Code of Iowa, Sec. 453A.2)

- 3.06 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)

CHAPTER 1: MISDEMEANORS

ARTICLE 4 - PUBLIC HEALTH AND SAFETY

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

4.02 DISCHARGING FIREARMS, FIREWORKS & WEAPONS.

1. It shall be unlawful for a person or corporation to discharge or fire any cannon, bomb, rifle, shotgun, revolver, pistol, gun, air rifles or air gun or a firearm of any kind, or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive within the city limits except by a police officer in the line of duty. No person shall intentionally discharge a firearm in a reckless manner.
2. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.
3. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.
4. In the interest of public health and safety and at such times as approved by the Chief of Police or Mayor, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
5. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

4.03 FIREWORKS

(Code of Iowa, Sec. 727.2)

I. Definitions.

- A. "Consumer fireworks" include first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Section 100.19, Subsection 1. "Consumer fireworks" do not include novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 or display fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.
- B. "Display fireworks" include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a viable or audible effect by combustion, explosion, deflagration, or detonation, and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" do not include novelties or consumer fireworks enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1.
- C. "Novelties" include all novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

II. Display Fireworks Prohibition.

- A. A person, firm, partnership, or corporation without a city issued permit shall not offer for sale, expose for sale, sell at retail, use, or explode any display fireworks.
- B. A person, firm, partnership, or corporation may not explode any display fireworks in violation of a suspension order by the State Fire Marshal or Fire Chief.
- C. The City Council of Newell may, upon application in writing, grant a permit for the display and use of display fireworks by an organization or group of individuals when such fireworks display will be handled by a competent operator. No permit shall be granted here under unless the operator or sponsoring organization has filed with the City of Newell evidence of insurance in the following amounts:

1.	Personal Injury:	\$250,000.00
2.	Property Damage:	\$50,000.00
3.	Total Exposure:	\$1,000,000.00

III. Consumer Fireworks Use.

- A. A person shall not use or explode consumer fireworks or novelties while the use of such devices is prohibited by the Code of Ordinances. No person shall use consumer fireworks in a willful or wanton disregard for the safety of persons or property or while intoxicated as defined by Iowa Code 123.46.

IV. Consumer Fireworks Limitations.

- A. A person shall not use or explode consumer fireworks on days other than July 3 through July 4 and December 31 of each year, all dates inclusive.
- B. A person shall not use or explode consumer fireworks at times other than:
 - 1. Between the hours of 9:00 AM and 10:00 PM on July 3.
 - 2. Between the hours of 9:00 AM and 11:00 PM on July 4.
 - 3. Between the hours of 9:00 AM on December 31 and 12:30 AM on January 1.
- C. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.
- D. Penalty: A \$300.00 fine will be issued to those persons for shooting off consumer fireworks on public property at any time. It is allowed on private property on the days and hours permitted in B.

(Ordinance 259)

4.04 FALSE ALARMS. It is unlawful for a person to:

- 1. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

(Code of Iowa, Sec. 723.4(5))
- 2. A person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the act did not occur.

(Code of Iowa 718.6(1))
- 3. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance.

(Code of Iowa 718.6(2))
- 4. A person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple misdemeanor, unless the criminal act for which the citation is issued is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor

- 4.05 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or across any street, highway, alley, sidewalk or public place.
- 4.07 SPITTING. It shall be unlawful for a person to spit, including phlegm within any food establishment, restaurant, hotel, motor inn, cocktail lounge, tavern, public place or place of business, or onto any building or structure within the City, or within a park or playground.
- 4.08 SALE OF TAINTED FOOD. It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.
- 4.09 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or structure, under his/her or their control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, ice box or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.
(Iowa Code, Sec. 727.3)
- 4.11 ANTENNA AND RADIO WIRES. It shall be unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, or public property.
(Code of Iowa, Sec. 364.12(2))
- 4.12 BARBED WIRE AND ELECTRIC FENCE. It shall be unlawful for a person to use barbed wire or electric fence to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.
- 4.13 URINATION AND DEFECATION. It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, public place or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto public or private land. This section shall not apply to restrooms or public facilities designated for such purpose.

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

(Code of Iowa, Sec. 727.1)

CHAPTER 1: MISDEMEANORS

ARTICLE 5 - PUBLIC PROPERTY

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

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

CHAPTER 1: MISDEMEANORS

ARTICLE 6 - PRIVATE PROPERTY

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

1. **ENTER PROPERTY WITHOUT PERMISSION.** Enter upon or in private property without legal justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.
(Code of Iowa, Sec. 716.7)
2. **VACATE PROPERTY WHEN REQUESTED.** Enter or remain upon or in private property without legal justification after being notified or requested to abstain from entering or to remove or vacate 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)
3. **INTERFERE WITH LAWFUL USE OF PROPERTY.** Enter upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.
(Code of Iowa, Sec. 716.7)
4. **USE OF PROPERTY WITHOUT PERMISSION.** Be upon or in private property and use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.
(Code of Iowa, Sec. 716.7)

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

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

- 6.02 DAMAGE TO PROPERTY. It shall be unlawful to cut, hack, break, deface or otherwise injure any ornamental or shade tree, fence, private building, railing or other property.
(Code of Iowa, Sec. 716.1)
- 6.03 TELEPHONE OR COMMUNICATION WIRE TAP Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, commits a serious misdemeanor; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.
(Code of Iowa, Sec. 727.8)
- 6.04 THEFT. No person shall take possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof. It is punishable as a simple misdemeanor under the City Code when the reasonable dollar amount of the property stolen is in line with the present Iowa Code Sec. 714.2, as amended.
- 6.05 ABANDONED OR UNATTENDED REFRIGERATORS. Any person who abandons or otherwise leaves unattended any refrigerator, icebox, or similar container, with doors that may become locked, outside of buildings and accessible to children, or any person who allows 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, commits a simple misdemeanor.
(Code of Iowa, Sec. 727.3)

CHAPTER 1: MISDEMEANORS

ARTICLE 7 - EXECUTION OF PROCESS

- 7.01 INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under Chapter 147A, Code of Iowa, 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 under Chapter 147A Code of Iowa, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars (\$250.00). However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor.
(Code of Iowa, Sec. 719.1)
- 7.02 RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of the person's self, or another which the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful or the arrest is in fact unlawful.
- 7.03 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any peace officer, firefighter, officer, or city official in the discharge of his/her duty.
- 7.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees.
(Code of Iowa, Sec. 718.4)
- 7.05 REFUSING TO ASSIST AN OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.
(Code of Iowa, Sec. 719.2)

CHAPTER 1: MISDEMEANORS

ARTICLE 8 - LOITERING

- 8.01 LOITERING PROHIBITED. It shall be unlawful for any person or persons to loiter, stand, sit or play on any public street, sidewalk, alley, or entry to any business, in the downtown business district of the City of Newell, Iowa, between the hours of 10:00 p.m. and 6:00 a.m. on the following day.
- 8.02 EXCEPTIONS. The restrictions provided herein shall not apply to any social function at any place of business in the downtown area or any special event sponsored by any civic organization.
- 8.03 PENALTIES. Any person or persons who violates the provisions contained in this ordinance shall be dealt with in accordance with Iowa law and be either taken into custody by the Chief of Police or his Officers or be issued the proper citation to appear in the Buena Vista County court on the charge of loitering.

CHAPTER 2: NUISANCES

ARTICLE 9 - GENERAL PROVISIONS

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

1. "NUISANCE" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
(Code of Iowa, Sec. 657.1)
2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.
(Code of Iowa, Sec. 364.12(1))

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

1. Offensive smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
(Code of Iowa, Sec. 657.2(1))
2. Filth or noisome substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
(Code of Iowa, Sec. 657.2(2))
3. Water pollution. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
(Code of Iowa, Sec. 657.2(4))
4. Blocking public and private ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landings, places or burying grounds.
(Code of Iowa, Sec. 657.2(5))
5. House of ill fame. Houses of ill fame, kept for the purpose prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
(Code of Iowa, Sec. 657.2(6))

- 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.
(Code of Iowa, Sec. 657.2(7))
7. Storing of flammable junk. The 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 it be in a building of fireproof construction.
(Code of Iowa, Sec. 657.2(9))
8. Air pollution. The emission of dense smoke, noxious fumes or fly ash.
(Code of Iowa, Sec. 657.2(10))
9. Weeds. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.
(Code of Iowa, Sec. 657.2(11))
10. Dutch elm disease. Trees infected with dutch elm disease.
(Code of Iowa, Sec. 657.2(12))
11. Obstruction of drainage. Any article or substance placed upon any street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the same.
12. Obstruction of view. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
13. Trash piles. Accumulation of rubbish or trash tending in nature to harbor or attract vermin, rodents, or other disease-carrying pests, animals or insects, or to spread or harbor disease, emit unpleasant odors or harmful gas or creating a hazard of fire.
14. Septic effluent. Effluent from a septic tank or drainage field running or ponding on the ground in the open, including in ditches.
15. Ponding water. An accumulation of water until it becomes stagnant.
16. Farm Animals & fowl. Except in areas zoned "A" Agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies.

17. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free standing material makes with the horizontal plane without slipping, sliding or collapse of the material.
18. This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.
19. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
20. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans, or containers.
21. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.
22. A house, other building or land visible from any public place or private premises remaining in an unclean or disorderly condition and to a standard not conforming with other orderly premises in the vicinity.
23. Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.
24. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals or insects.
25. Whenever there is an infestation of insects, rats, vermin, rodents, or birds on any premises.

(Ordinance 260, added Subsection 9.01(25))

26. "Junk" meaning 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, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; storing or permitting the open storage of used or unused or discarded building materials such as windows, doors, siding, shingles or other building materials for a period of thirty (30) or more days;. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.

27. Debris, Refuse, Rubbish, Trash. Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels (excluding burn barrels and solid waste collection barrels awaiting pickup), bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, pallets, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly or systematically, flammable materials, garbage, gasoline, grass, household furniture, discarded or broken or abandoned toys, iron and other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paper, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, roof shingles, rubber, sawdust, slag slop, soot, straw, sweepings, tacks, tarpaulins not in good repair, tires (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property or adversely affect the use and habitability of nearby property and of property within the City as a whole. Foliage and shrub clippings or cuttings, leaves, brush and fallen tree limbs or debris, firewood and other yard waste may be stored in piles in a rear yard not less than two (2) feet from a lot line and should be stored temporarily pending disposal or when used for mulch or composting or firewood.
28. Furniture, Fixtures and Appliances Outdoors. Any furniture, fixture, and appliance, including sofas, divans, recliners, toilets, bathtubs, sinks and similar objects that are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway, or public right-of-way.
29. Ponding water. An accumulation of water until it becomes stagnant.
30. The open storage on private property which is residentially zoned of any two (2) or more vehicles parts including but not limited to bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields, or windows, wheels, batteries, or any other structural, mechanical or decorative vehicle parts.
31. Accumulations of refuse or the maintenance of a private dump in violation of city ordinances.
32. All buildings, walls and other structures which are structurally unsafe, constitute a fire hazard or are otherwise dangerous to human life, constituting a hazard to self-safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment.

33. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.
34. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of its location, inadequate maintenance or dilapidation, or is not kept in good repair, or is capable of causing electric shocks to persons likely to come in contact with it, or which obstructs free ingress or egress from a required door, window, fire escape or other required exit-way.
35. Residential or non-residential structures, the condition of which constitutes a hazard to safety or to health as determined by the building official or his or her designee.
36. Unoccupied buildings or sheds found to be frequently open or accessible and vacated for more than six months.
37. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.
38. Noise Pollution. Any sound which disturbs human or which causes or tends to cause an adverse psychological or physiological effect on humans.
39. Litter. Any decomposable or non-decomposable solid or other waste material.
40. Dead growth of all weeds, grass, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, or which otherwise constitutes a nuisance under this chapter. For purposes of this paragraph, all growths or weeds in excess of heights established in Chapter 4, Article 13 of this Title III shall be deemed to be a nuisance. Exempt from this paragraph are growths used primarily for educational and/or research purposes, so long as the growths are controlled. (See Title III, Chapter 4, Article 13 Weeds.)
41. Structures damaged by Fire or Decay. All buildings and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (1/2) of their original value and which are so situated as to endanger the safety of the public.
42. Permitting or allowing the illumination of flood lights, yard lights or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.
43. No person shall store or permit to be stored dirt, sand, gravel, debris or similar materials on a property unless said dirt or other materials shall be leveled and the lot brought to uniform grade consistent with surrounding lots. As an exception to the foregoing, the following uses are permitted:

- a. Materials stored in bulk which are to be used as a part of the normal operations of a legally permitted landscaping business for use on other lots or to be sold on premises.
 - b. Dirt, sand, gravel and other materials may be stored in mounds for a period not to exceed six (6) months or the term of a building permit on a property in anticipation of construction on that lot, or in connection with construction on a neighboring lot, but for no other purpose.
44. Failure to establish a permanent cover of perennial grasses on any non-farm property or adjacent unpaved public right-of-way as soon as practical after any construction on the lot and adjacent right of way, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water. Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control. Additionally, if permanent grass cover fails to establish itself on the right of way, due to road salt, sand and other winter maintenance procedures, then ornamental rock cover may be established, subject to the approval of the City Clerk and/or designee.
45. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
46. BUILDING MAINTENANCE. All buildings shall be maintained to be weather and watertight. Broken windows, holes in roofs, and missing siding shall be replaced with similar materials to maintain the weather and watertight properties of the structure. All wood including floorboards, decking, subfloors, joists, rafters, roof sheathing, and siding shall be replaced when missing, rotted or damaged. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of house or building. Their appearance, as judged under prevailing appraisal practices and standards. Owners or responsible parties shall not use materials which would depreciate the value of adjoining premises or the neighborhood. Painted surfaces shall be maintained or repainted so that an individual wall surface does not have peeling or missing paint in areas in excess of fifty percent (50%) of that individual surface area.
47. Collection of Grass on a Public Street. No person shall dump, blow, toss, place or distribute or otherwise cause to be distributed grass, weeds, or vegetation placed on the public streets or roadway. If grass, weeds, or vegetation is placed on the public streets or roadways, the person responsible for such activity or the property owner of the property where said grass, weeds, or vegetation originated shall

immediately remove or cause to be removed the collected grass, weeds, or vegetation. However, this provision shall not be construed to mean that persons who place leaves on the curb during the Fall season for pick up by city constitutes a nuisance.

48. Missing or torn, ripped, tattered, canvas, plastic, fabric or non-permanent material of a temporary storage structure (membrane storage structure) or missing, broken or dilapidated aluminum or steel support structures of such temporary structure (commonly referred to as hoop building or tent garages). The City's zoning ordinance may prohibit such temporary portable accessory storage structures.
49. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose or missing elements.
50. Dead Animals and Other Contaminated Material. Carcasses of animals remaining exposed and unburied six hours after death, or green or slated hides left or deposited in any open or public places; the storage, collection, discharge or depositing of any liquid waste, offal, filth, garbage, refuse, dead animals, or contaminated material in any private or public place so as to threaten the health or safety of or which is offensive to the senses of any individual or the public, or which is conducive to the breeding and harborage of flies, rats, or other vermin. Game animals being processed according to Iowa Department of Natural Resources regulations are exempted.
51. Miscellaneous. Any act done or committed or suffered to be done or committed by any person - or any substance or thing kept, maintained, placed, or found in or on any public or private place - which is annoying or damaging or injurious or dangerous to the public health or welfare or safety, and every act or thing done, permitted, maintained, allowed, or continued on any property, public or private, by any person, which is liable to or does endanger, annoy, damage, or injure any person or inhabitant of the City or property of said person or inhabitant.
52. Vehicle Parts. Storage (other than in an enclosed building) on private property that is residentially zoned of any two or more vehicle parts, including (but not limited to) bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.
53. Storage on Trailers or Trucks. The storage of anything on an unenclosed trailer, pickup, truck box, or like vehicles shall be treated in the same manner as storage outside of an enclosed structure. Coverage with a tarp is not considered enclosed.

9.03 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this chapter:

1. **REMOVAL OF DISEASED TREES.** The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.
(Code of Iowa, Sec. 364.12(3b))
2. **REMOVAL OF STRUCTURES.** The removal, repair or dismantling of a dangerous building or structure.
(Code of Iowa, Sec. 364.12(3c))
3. **NUMBERING OF BUILDINGS.** The numbering of buildings.
(Code of Iowa, Sec. 364.12(3d))
4. **DRAINAGE CONNECTIONS.** The connection to public drainage systems from abutting property when necessary for public health or safety and protection of property.
(Code of Iowa, Sec. 364.12(3e))
5. **SANITARY FACILITIES.** The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
(Code of Iowa, Sec. 364.12(3f))
6. **DESTRUCTION OF WEEDS.** The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
(Code of Iowa, Sec. 364.12(3g))
7. **MAINTENANCE.** The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets and ten (10) feet clearance above sidewalks from trees, except as provided in Section 9.03(1) in this Article.

9.04 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.

(Code of Iowa, Sec. 657.3)

CHAPTER 2: NUISANCES

ARTICLE 10 - ABATEMENT PROCEDURE

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

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

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

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

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

10.03 METHOD OF SERVICE. The notice may be in the form of an ordinance, personal service or a notice sent by certified mail to the property owner.

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

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

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

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

- 10.06 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the clerk who shall pay such expenses on behalf of the city.

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

- 10.07 COSTS OF ABATEMENT. The following shall apply to abatement procedure:

1. **COLLECTION**. The clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the clerk shall certify the costs to the county auditor and it shall then be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
2. **INSTALLMENT PAYMENT**. If the amount expended to abate the nuisance or condition exceeds \$500, the City may permit the assessment to be paid in up to fifteen (15) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.
(Code of Iowa, Sec. 364.13, 380.60 & 380.65)
3. The City may collect all associated abatement expenses in a Court of Small Claims.
4. The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.
5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

- 10.08 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances, and subject to the standard penalty contained in Title 1, Chapter 1, Article 1 of this Code of Ordinances and may also be punished under the City's municipal infraction ordinance, as codified in this Code of Ordinances. A separate offense shall be deemed committed on each day during or on which violation occurs or continues.
- 10.09 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Code of Iowa Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.
(Code of Iowa, Sec. 364.12A)
- 10.10 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in this Article, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Title III, Article 14 of this Code of Ordinances.

CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 11 - GENERAL PROVISIONS

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

1. "ANIMAL" shall mean all living creatures not human.
2. "AT LARGE" shall mean any animal found off the premises of his/her owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "DOG" shall mean both male and female animals of the canine species whether altered or not.
4. "OWNER" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.
5. "DANGEROUS ANIMAL" shall mean:
 - A. Any animal which is not naturally tamed 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 dangerous by the County Board of Health, City Council, or any other governing body.
 - C. The following animals, which shall be deemed to be dangerous per se: Lions, tigers, jaguars, leopards, cougars, lynx and bobcats; wolves, coyotes and foxes; badgers, wolverines weasels, skunks and mink, raccoons; bears; monkeys and chimpanzees; bats; alligators and crocodiles; scorpions; snakes that are venomous or constrictors; gila monsters; pit bull dogs (see Article 12 of this Chapter, Keeping of Pit Bull Dogs).
6. "VICIOUS ANIMAL" shall mean any animal, except a dangerous animal per se as listed above, that has chased or attacked or bitten or has attempted to bite or claw a person or persons while running at large and the attack was unprovoked; any animal that has chased, killed or maimed any domestic animal or fowl, or if such animal has been deemed vicious by the court, County Board of Health, City Council, or other governing body; or when the propensity to attack or bite persons or to chase, kill, or maim domestic animals or fowl shall exist and is known or ought reasonably to be known to the owner.

7. "DOMESTIC LIVESTOCK" shall mean any domestic animal commonly raised solely for food commerce, and shall include, but not be limited to any cattle, horses, swine, sheep or other similar animals or fowl or any other animals not commonly considered household pets.

- 11.02 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

(Editor's Note: Section 11.02 was amended by Ordinance 203, approved by Council on February 3, 2003)

- 11.03 CRUELTY TO ANIMALS. It shall be unlawful for a person to torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly beat, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same, or carry the same, or cause the same to be cruelly carried on any vehicle or otherwise, or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the acts or omissions herein contemplated be committed either intentionally or negligently.

(Code of Iowa, Sec. 717.2 & 717.3)

- 11.04 ABANDONMENT. A person who has ownership of a cat or dog shall not abandoned the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody, or the person may deliver the cat or dog to an animal shelter or pound.

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

(Code of Iowa, Sec. 717.3)

- 11.06 INJURIES TO ANIMALS. No person, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal.

(Code of Iowa, Sec. 717.1)

- 11.07 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the city.
- 11.08 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine and sheep, or other animals which tend to disrupt the peace and good order of the community.
- 11.09 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.
- 11.10 ACTIONS OF DOGS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog to allow or permit such dog to perform the following:
1. OTHER PREMISES. To pass upon the premises of another thereby causing damage to, or interference with, the premises.
 2. CAUSE ANNOYANCE. To cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking or otherwise; or by running after or chasing persons, bicycles, automobiles or other vehicles.
 3. CAUSE DAMAGE. To cause any damage or defilement to the public or private property.
 4. MOLEST PERSONS. To molest or harm any person on public or private property.
 5. MOLEST ANIMALS. To molest or kill wildlife, birds of domestic animals on public or private property.
 6. ACCUMULATION OF ANIMAL WASTE. The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners.
 7. To run at large, whether the cat or dog is licensed or unlicensed.
 8. Damages, soils, defiles or defecates on public or private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
 9. Causes unsanitary, dangerous or offensive condition.

11.11 KEEPING OF VICIOUS OR DANGEROUS ANIMALS PROHIBITED. It shall be unlawful for any person to harbor, keep, or shelter any dangerous or vicious animal as a pet, or act as a temporary custodian for such and animal, or keep, shelter, or harbor such animal for any other purpose or in any other capacity within the City except as provided in this section:

1. Dangerous Animal Exceptions. The prohibition captured in this section shall not apply to the keeping of dangerous animals in the following circumstances:
 - A. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibits, or shows.
 - B. The keeping of dangerous animals in a bona fide, licensed veterinary hospital or animal shelter for treatment or boarding.
 - C. Any dangerous animals under the jurisdiction of and in the possession of the Department of Natural Resources, pursuant to Chapters 109 and 109A of The Code of Iowa.
2. Vicious animal exception: The prohibition contained in this section shall not apply to the keeping of vicious animals, which are under the control of a law enforcement or military agency.
3. Disposition of Dangerous or Vicious Animals. It shall be unlawful for any person to harbor or keep a dangerous or vicious animal within the City limits. In the event that a dangerous or vicious animal is found at large and unattended, it shall be lawful and the duty of all peace officers within their jurisdiction to kill any animal that has been determined to be dangerous or vicious through violation of this chapter. The City shall be under no duty to attempt the confinement or capture of a dangerous or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction. The City will take immediate action in the proper disposal of the remains of the destroyed animal. Any costs incurred by the City in the destruction and disposal of the animal will be the responsibility of the animal owner.

11.12 OWNERS DUTY. It shall be 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 shall be the duty of physicians and veterinarians to report to the local board of health and the City of Newell the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

- 11.13 CONFINEMENT. When a Peace Officer, Employee, City Council Member, or Mayor of the City of Newell receives information that an animal has bitten any person or that a dog or animal is suspected of having rabies, the owner shall be ordered to confine such animal in the manner directed. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by the City of Newell, and after two weeks the City may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.
(Code of Iowa, Sec. 351.39)
- 11.14 KENNELS. Kennels, for the raising, breeding and boarding of dogs are expressly prohibited from residential districts. Kennels for the raising, breeding, and boarding of dogs shall be allowed only in agricultural areas and must comply with State rules and regulations.
- 11.15 DOMESTIC LIVESTOCK. It shall be unlawful for any person or persons, firm, association, or corporation to keep or raise livestock inside the corporate limits of the City of Newell, except in areas zoned agricultural.
- 11.16 Reserved for Future Use
- 11.17 PENALTIES – FINES. Any person found in violation of any civil citation of Article 11 of the City of Newell's Code shall be fined as such:
- \$50.00 – 1st Offense
\$75.00 – 2nd Offense
\$100.00 Each Subsequent Offense
- 11.18 FINES PAID TO CITY CLERK. Any person found in violation of this ordinance and is issued a citation by a representative of the City of Newell, shall make payment of said fine payable to the City of Newell and presented to the City Clerk. The City shall issue a receipt for said payment of fine.
- 11.19 FAILURE TO PAY FINE. If the violator fails to pay said fine within 30 days of the issuance of a citation, the City shall impound the animal(s) for no more than 10 calendar days, at which time the City shall be considered owner of the animal(s) ~~dog(s)~~ with all ownership rights of the violator terminated and the City shall file a lien with the County Auditor for recovery of all expenses incurred by the City as well as the prescribed fine.

(Editor's note: Ordinance 200, amended sections 11.17 to 11.19, approved by Council on August 5, 2002)

11.20 LICENSE.

1. A license must be obtained from City Hall for any dog over the age of four (4) months.
 - a. Fee. The fee for a city license shall become due and payable between January 1 and April 1 of each other year. The bi-annual fee shall be \$7.50 for each dog. The fee will be the same no matter when purchased in the 2-year cycle.
(Code follow, Sec. 351.24)
 - b. Delinquent fee. License becomes delinquent April 1, with an additional delinquent fee of five dollars (\$5) charged for licenses purchased after that date.
 - c. License tag. The license, which shall be stamped with the license number, shall be fastened to a collar or harness, which shall be worn by the dog for which the license was issued.
 - d. Unlicensed dogs. Any dog found running at large without the license tag attached to its collar shall be deemed unlicensed.

11.21 KENNEL DOGS. Kennel dogs, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this article if the kennel is licensed under Chapter 162, Code of Iowa, and if the kennel is located on property zoned appropriately for such use.

(Editor's Note: Section 11.17 through 11.21 was amended by Ordinance 203, approved by Council on February 3, 2003)

11.22 DOG/ANIMAL OWNERSHIP. If after two (2) written citations by the police department for any violation of the ordinance on animal control and protection, the dog or animal owner or other persons residing at the same residence is no longer allowed to own or possesses a dog/animal for a minimum of two (2) years.

(Editor's Note: Section 11.22 was amended by Ordinance 221, approved by Council on August 6, 2007)

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

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

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

- 11.20 IMPOUNDMENT. Dogs found at large shall be seized and impounded, and/or the owner may be served a summons to appear before a proper court to answer charges made. Upon payment of actual expenses incurred by the City of Newell for the impoundment of the dog plus Cost Recovery Fee for City time spent on the impoundment of the dog. (Cost Recovery Fee to be 50% of the actual expenses incurred by the City of Newell for the impoundment of the dog). Upon payment of these fees, the owner may claim any impounded dog. If the animal is not claimed, and ownership of the dog can be established, these expenses and fees may be recovered from the owner of the dog.
- 11.21 LIMIT NUMBER OF DOGS AND CATS. The number of cats/feline or dogs/canine six (6) months of age or older is limited to no more than three (3) cats and three (3) dogs per residence, property, or place of business (excluding bona pet stores, animal grooming shop, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of six (6) months of age.
- 11.22 ANIMALS IN MOTOR VEHICLES; RESCUE. No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal.

The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section.

- (1) peace officer
- (2) fire department personnel

The person rescuing the animal shall notify the Mayor or City Clerk and animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

- 11.23 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)

- 10.14 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

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

CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 12 - KEEPING OF PIT BULL DOGS

- 12.01 PURPOSE. In order to protect the health, safety and welfare of the residents and citizens of the City of Newell, the City Council of the City of Newell does hereby enact the following provisions.
- 12.02 KEEPING PROHIBITED. It shall be unlawful to keep, harbor, own or in any way possess, within the City of Newell, Iowa, any pit bull dogs; and any pit bull dogs presently unlicensed or licensed with the Buena Vista County and kept within the City of Newell, Iowa, shall be removed from the City within a period of thirty (30) days starting from June 17, 1998, the effective date of this paragraph.
- 12.03 DEFINITION. "Pit Bull Dog" is defined to mean:
- A. The bull terrier breed of dog;
 - B. The Staffordshire bull terrier breed of dog;
 - C. The American pit bull terrier breed of dog;
 - D. The American Staffordshire terrier breed of dog;
 - E. 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;
 - F. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.
- 12.04 FAILURE TO COMPLY. It shall be unlawful for the owner, keeper or harborer of a pit bull dog to fail to comply with the requirements and conditions set forth in this Chapter. Any dog found to be the subject of a violation of this Chapter shall be subject to immediate seizure and impoundment.
- 12.05 VIOLATION AND PENALTY: Any person violating or permitting the violation of any provision of this Chapter shall, upon conviction in Magistrate Court, be fined a sum not more than six hundred twenty-five five-hundred dollars(\$625.00). In addition, the Court shall order the license of the subject pit bull revoked and the dog removed from the City. Should the defendant fail to remove the dog from the City, the Magistrate shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this Chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this Chapter.

CHAPTER 4: WEEDS

ARTICLE 13 – GENERAL PROVISIONS

- 13.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.
- 13.02 DEFINITIONS. For use in this chapter, the following terms are defined:
1. “Curb,” “curb line” or “curbing” means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
 2. “Cut,” or “mow” means to mechanically maintain the growth of grass, weeds or brush at a uniform height.
 3. “Owner” means a person owning private property in the City and any person occupying private property in the City.
 4. “Parking” means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.
- 13.03 GROUND COVER REQUIRED. Property in a residential area shall be seeded, sodded or otherwise planted with a ground cover not more than thirty (30) days after construction is completed, unless impractical, but not later than the beginning of the next growing season.
- 13.04 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 12.05 of this Chapter.
 2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner’s property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner’s property.
- 13.05 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:
1. Developed Residential Areas – not to exceed six inches (6").
 2. Undeveloped Residential Areas – not to exceed twelve inches (12").
 3. Business and Industrial Areas – not to exceed six inches (6").
 4. Agriculture Areas – not to exceed eighteen inches (18").

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

13.06 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.
2. Noxious weeds include any weed growth or plant designed as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

13.07 NOTICE TO ABATE. Upon discovery of any violations of this chapter, the City may within five (5) days initiate abatement procedures as outlined in Title 3, Chapter 10 of this Code of Ordinances.

CHAPTER 4: MUNICIPAL INFRACTIONS

ARTICLE 14 - MUNICIPAL INFRACTIONS

14.01 DEFINITIONS.

1. Municipal Infraction: Any violation of the City Code of Newell, Iowa, is a municipal infraction, EXCEPT any violation which is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law, or any violation which is a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa.
2. Officer: Any employee or person authorized to enforce the ordinances and the City Code of the City of Newell, Iowa.
3. Repeat Offense: Any recurring violation of the same section of the ordinances or the City Code of Newell, Iowa.

(Code of Iowa Sec. 364.22)

14.02 PENALTIES.

1. A municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:

Schedule of Civil Penalties

First Offense	\$500.00
Each Repeat Offense	\$1,000.00

However, 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 may be punishable by a civil penalty of not more than \$1,000.00 for each day a violation exists or continues.

2. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
3. A municipal violation 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:

- a. 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.
 - b. The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - c. The violation does not continue in existence for more than eight (8) hours.
4. Seeking a civil penalty as authorized in the above provisions 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)

14.03 CIVIL CITATIONS.

1. Any officer authorized by the City to enforce the City Code or ordinances may issue a civil citation to a person who commits a municipal infraction.
2. The citation may be served by personal service as provided in Iowa Rule of Civil Procedure 1.305, or by certified mail to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner provided in Iowa Rule of Civil Procedure 1.310 and subject to the conditions of Iowa Rule of Civil Procedure 1.311.
3. A copy of the citation shall be retained by the issuing officer, and one original copy shall be provided to the clerk of the district court.
4. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.
 - h. The legal description of the affected property, if applicable.

- 14.04 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 connection with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provision of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or 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 the industrial production or manufacturing of grain products of if such discharge occurs from September 15 to January 15.

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

(Code of Iowa, Sec. 364.22(9))

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

(Code of Iowa, Sec. 364.22)

- 14.07 PROHIBITION AGAINST FURTHER VIOLATIONS. A person who commits an infraction of a City ordinance subject to the provisions of this chapter may be ordered by the Court to cease further violations of the same provisions of the ordinance. Failure of the person to adhere to this order will result in contempt proceedings being initiated by the City.

TITLE IV - TRAFFIC AND STREETS

CHAPTER 1: TRAFFIC CODE

ARTICLE 1 - GENERAL PROVISIONS

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

1. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets: between First St. on the north and 3rd St. on the south, Madison St. on the west and Franklin St. on the east.
2. "PARK" OR "PARKING" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
3. "PEACE OFFICER" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in section 801.4 Code of Iowa.
(Code of Iowa, Sec. 321.1 (50))
4. "RESIDENCE DISTRICT" shall mean the territory not included in a business or school district.
5. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
6. "STOP" shall mean when required, the complete cessation of movement.
7. "STOP" OR "STOPPING" shall mean, when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
8. "TRAFFIC CONTROL DEVICE" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
(Code of Iowa Sec. 321.1 (46))
9. "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.
(Code of Iowa Sec. 321.1 (90))

- 1.02 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the police department.
- 1.03 TRAFFIC ACCIDENTS. The following shall apply to traffic accidents:
1. REPORT. The driver of a vehicle involved in an accident within the limits of this city shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the city for the confidential use of the police department and shall be subject to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.271 & 321.273))
 2. INVESTIGATION. The police shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.
 3. STUDIES. Whenever the accidents at any particular location become numerous, the police chief shall conduct studies of such accidents and propose remedial measures.
- 1.04 FILES MAINTAINED. The police chief shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three-year period. Such reports shall be filed alphabetically under the name of the driver concerned.
- 1.05 ANNUAL SAFETY REPORTS. The police chief shall prepare annually a traffic report which shall be filed with the mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.
- 1.06 HABITUAL TRAFFIC VIOLATORS. The police chief shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefore, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law.
(Code of Iowa, Sec. 321.201 & 321.215)
- 1.07 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the fire department when at the scene of a fire, or emergency or assisting law enforcement at the location of a traffic accident or when assisting peace officers, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

- 1.08 CHAPTER 321 VIOLATIONS. Any violation of Chapter 321, the Code of Iowa, 2007, shall also constitute a violation of this Code.

(Editor's Note: Section 1.08 was added by Ordinance 214, adopted by City Council on May 8, 2008)

- 1.09 PEACE OFFICER'S AUTHORITY. Any 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 the vehicle.
(Code of Iowa, Sec. 321.492)

- 1.10 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

CHAPTER 1: TRAFFIC CODE

ARTICLE 2 - REGULATIONS AND VIOLATIONS

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.57 - Operation under special plates.
7. Section 321.67 - Certificate of title must be executed.
8. Section 321.78 - Injuring or tampering with vehicle.
9. Section 321.79 – Intent to injure.
10. Section 321.91 – Penalty for abandonment.
11. Section 321.98 – Operation without registration.
12. Section 321.99 – Fraudulent use of registration.
13. Section 321.104 - Penal offenses again title law.
14. Section 321.115 - Antique vehicles; model year plates permitted.
15. Section 321.174 – Operators licensed.
16. Section 321.174A – Operation of motor vehicles with expired license.
17. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
18. Section 321.180 – Instruction permits.
19. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
20. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
21. Section 321.193 – Restricted licenses.
22. Section 321.194 – Special minor’s licenses.
23. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor’ License.
24. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
25. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
26. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
27. Section 321.218 - Operating without valid driver's license or when disqualified.

28. Section 321.219 – Permitting unauthorized minor to drive.
29. Section 321.220 – Permitting unauthorized person to drive.
30. Section 321.221 – Employing unlicensed chauffeur.
31. Section 321.222 – Renting motor vehicle to another.
32. Section 321.223 – License inspected.
33. Section 321.224 – Record kept.
34. Section 321.232 – Radar jamming devices; penalty.
35. Section 321.234A – All-terrain vehicles.
36. Section 321.235A – Electric personal assistive mobility devices.
37. Section 321.247 – Golf cart operation on City streets.
38. Section 321.256 - Obedience to official traffic-control devices.
39. Section 321.257 – Official traffic control signal.
40. Section 321.259 – Unauthorized signs, signals or markings.
41. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
42. Section 321.262 – Damage to vehicle.
43. Section 321.263 – Information and aid.
44. Section 321.264 – Striking unattended vehicle.
45. Section 321.265 – Striking fixtures upon a highway.
46. Section 321.275 – Operation of motorcycles and motorized bicycles.
47. Section 321.276 - Use of electronic communication device while driving; text-messaging.
48. Section 321.277 - Reckless driving.
49. Section 321.277A - Careless driving.
50. Section 321.278 – Drag racing prohibited.
51. Section 321.284 – Open containers in motor vehicles – drivers.
52. Section 321.284A – Open containers in motor vehicles – passengers.
53. Section 321.288 – Control of vehicle; reduced speed.
54. Section 321.295 – Limitation on bridge or elevated structures.
55. Section 321.297 – Driving on right-hand side of roadways; exceptions.
56. Section 321.298 – Meeting and turning to right.
57. Section 321.299 – Overtaking a vehicle.
58. Section 321.302 – Overtaking and otherwise.
59. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
60. Section 321.304 – Prohibited passing.
61. Section 321.306 - Roadways laned for traffic.
62. Section 321.307 – Following too closely.
63. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
64. Section 321.309 – Towing; convoys; drawbars.
65. Section 321.310 – Towing four-wheel trailers.
66. Section 321.311 – Turning at intersections.
67. Section 321.312 – Turning on curve or crest of grade.
68. Section 321.313 – Starting parked vehicle.
69. Section 321.314 – When signal required.
70. Section 321.315 – Signal continuous.
71. Section 321.316 – Stopping.

72. Section 321.317 – Signals by hand and arm or signal device.
73. Section 321.318 – Method of giving hand and arm signals.
74. Section 321.319 – Entering intersections from different highways.
75. Section 321.320 – Left turns; yielding.
76. Section 321.321 – Entering through highways.
77. Section 321.322 – Vehicles entering stop or yield intersection.
78. Section 321.323 – Moving vehicle backward on highway.
79. Section 321.323A - Approaching certain stationary vehicles.
80. Section 321.324 – Operation on approach of emergency vehicles.
81. Section 321.324A – Funeral processions.
82. Section 321.325 – Pedestrians subject to signals.
83. Section 321.327 – Yield to pedestrians in crosswalks.
84. Section 321.328 – Pedestrian failing to use crosswalk.
85. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
86. Section 321.330 – Use of crosswalks.
87. Section 321.331 – Pedestrians soliciting rides.
88. Section 321.332 – White canes restricted to blind persons.
89. Section 321.333 – Duty of drivers.
90. Section 321.340 – Driving through safety zone.
91. Section 321.341 – Obedience to signal of train.
92. Section 321.342 – Stop at certain railroad crossings; posting warning.
93. Section 321.343 – Certain vehicles must stop.
94. Section 321.344 – Heavy equipment at crossing.
95. Section 321.344B – Immediate safety threat; penalty.
96. Section 321.354 – Stopping on traveled way.
97. Section 321.358 – Stopping, standing, or parking where prohibited.
98. Section 321.359 – Moving other vehicle.
99. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).
100. Section 321.362 – Unattended motor vehicle.
101. Section 321.363 – Obstruction to driver's view.
102. Section 321.364 – Preventing contamination of food by hazardous material.
103. Section 321.365 – Coasting prohibited.
104. Section 321.366 – Acts prohibited on fully controlled-access facilities.
105. Section 321.367 – Following fire apparatus.
106. Section 321.368 – Crossing fire hose.
107. Section 321.369 – Putting debris on highway.
108. Section 321.370 – Removing injurious material.
109. Section 321.371 – Clearing up wrecks.
110. Section 321.372 – School buses.
111. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
112. Section 321.381A – Operation of low-speed vehicles.
113. Section 321.382 – Upgrade pulls; minimum speed.
114. Section 321.383 – Exceptions; slow vehicles identified.

115. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
116. Section 321.385 – Head lamps on motor vehicles.
117. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
118. Section 321.387 – Rear lamps.
119. Section 321.388 – Illuminating plates. (Improper registration plate lamp)
120. Section 321.389 – Reflector requirement. (Improper rear reflector)
121. Section 321.390 – Reflector requirements.
122. Section 321.392 – Clearance and identification lights.
123. Section 321.393 – Color and mounting.
124. Section 321.394 – Lamp or flag on projecting load.
125. Section 321.395 – Lamps on parked vehicles.
126. Section 321.398 – Lamps on other vehicles and equipment.
127. Section 321.402 – Spot lamps.
128. Section 321.403 – Auxiliary driving lamps.
129. Section 321.404 – Signal lamps and signal devices.
130. Section 321.404A – Light-restricting devices prohibited.
131. Section 321.405 – Self-illumination.
132. Section 321.406 – Cowl lamps.
133. Section 321.408 – Back-up lamps.
134. Section 321.409 – Mandatory lighting equipment. (Failure to Dim)
135. Section 321.415 – Required usage of lighting devices.
136. Section 321.417 – Single-beam road-lighting equipment.
137. Section 321.418 – Alternate road-lighting equipment.
138. Section 321.419 – Number of driving lamps required or permitted.
139. Section 321.420 – Number of lamps lighted.
140. Section 321.421 – Special restrictions on lamps.
141. Section 321.422 – Red light in front.
142. Section 321.423 – Flashing lights.
143. Section 321.430 – Brake, hitch and control requirements.
144. Section 321.431 – Performance ability.
145. Section 321.432 – Horns and warning devices.
146. Section 321.433 – Sirens, whistles and bells prohibited.
147. Section 321.434 – Bicycle sirens or whistles.
148. Section 321.436 – Mufflers, prevention of noise.
149. Section 321.437 – Mirrors.
150. Section 321.438 – Windshields and windows.
151. Section 321.439 – Windshield wipers.
152. Section 321.440 – Restrictions as to tire equipment.
153. Section 321.441 – Metal tires prohibited.
154. Section 321.442 – Projections on wheels.
155. Section 321.444 – Safety glass.
156. Section 321.445 – Safety belts and safety harnesses; use required.
157. Section 321.446 – Child restraint devices.
158. Section 321.449 – Motor carrier safety regulations.
159. Section 321.450 – Hazardous materials transportation.

- 160. Section 321.454 – Width of vehicles.
 - 161. Section 321.455 – Projecting loads on passenger vehicles.
 - 162. Section 321.456 – Height of vehicles; permits.
 - 163. Section 321.457 – Maximum length.
 - 164. Section 321.458 – Loading beyond front.
 - 165. Section 321.460 – Spilling loads on highways.
 - 166. Section 321.461 – Trailers and towed vehicles.
 - 167. Section 321.462 – Drawbars and safety chains.
 - 168. Section 321.463 – Maximum gross weight.
 - 169. Section 321.465 – Weighing vehicles and removal of excess.
 - 170. Section 321.466 – Increased loading capacity; re-registration.
 - 171. Section 321.467 – Retractable Axels.
 - 172. Section 321.471 – Local Authorities May Restrict.
 - 173. Section 321.473 – Limiting Trucks – Rubbish Vehicles.
- 2.02 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of the city unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or oneself to any vehicle upon a roadway.
- 2.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.
- 2.04 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor punishable as provided in the Code of Iowa.
(Code of Iowa, Sec. 321.482)
- 2.05 MILLING. It shall be unlawful to drive or operate a motor vehicle, either singly or with others in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.
- 2.06 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.
- 2.07 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cutout, bypass or similar device.
(Code of Iowa, Sec. 321.436)

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

1. SIGNALS. The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than one hundred (100) feet, nor more than three hundred (300) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.

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

2. **LIGHTS ON.** The driver of a school bus shall, while carrying passengers, have its headlights turned on.
 (Code of Iowa, Sec. 321.372(1))
3. **DISCHARGING PUPILS.** All pupils shall be received and discharged from the right front entrance of every school bus, and if the pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.
 (Code of Iowa, Sec. 321.372(2))
4. **PASSING PROHIBITED.** The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.
 (Code of Iowa, Sec. 321.372(3))
5. **STOP WHEN MEETING.** The driver of any vehicle when meeting a school bus on which the amber warning signal lights are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution.
 (Code of Iowa, Sec. 321.372(3))
6. **MULTI-LANE ROADS.** The driver of a vehicle upon a highway or street providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction even though said school bus has stopped.
 (Code of Iowa, Sec. 321.372(4))
- 2.12 **LOUD SIGNALS AT NIGHT.** Loud signaling devices shall not be used during the hours of darkness between ten (10) p.m. and six (6) a.m. unless absolutely necessary to avoid an accident.
- 2.13 **NUISANCE DRIVING.** Any person who drives any vehicle in such a manner as to annoy, irritate, or interfere with the rights of another person or persons is guilty of nuisance driving, or the causing of a vehicle to be accelerated, decelerated or turned in such a manner as to cause the tires to produce excessive or loud noises, except when necessary to prevent an accident.
- 2.14 **CARELESS DRIVING.** Every person operating a vehicle shall drive the same in a reasonable and prudent manner, having due regard for the actual and potential hazards then existing, shall keep a proper outlook for such actual and potential hazards and shall keep his/her vehicle under control so as not to endanger or collide with persons or

property failure to observe any of the requirements hereto shall constitute careless driving.

- 2.15 JAKEBRAKING. It shall be unlawful for any person in any part of the City of Newell to make, or cause to be made, load or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any semi-tractor, commonly referred to as Jake braking. The City shall cause notices to be posted, or signs erected indicating prohibition. Penalty for violation of this section shall be \$100.00 for each offense.
- 2.16 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Title III Chapter 2 of this Code of Ordinances.
- 2.17 EXCESSIVE ACCELERATION. It is unlawful for any person in the operation of a motor vehicle, including motorcycles, to so accelerate such vehicle as to cause audible noise by the friction of the tires on the pavement or to cause the tires of the vehicle to leave marks on the pavement or to throw sand and gravel, or to cause the wheel of a motorcycle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid a collision.
- 2.18 UNATTENDED VEHICLE.
1. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key; or to permit it to stand unattended upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.
 2. No "reefer", or refrigeration unit of a semi or semi-trailer, or a vehicle with refrigeration shall be left unattended and running during daylight hours, nor shall any reefer or refrigeration unit on a vehicle be left running from the hours of sunset to sunrise.

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ARTICLE 3 - SPEED REGULATIONS

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

(Code of Iowa, Sec. 321.285)

- 3.02 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

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

(Code of Iowa, Sec. 321.285(1))

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

(Code of Iowa, Sec. 321.285(2))

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

(Code of Iowa, Sec. 321.236(5))

- 3.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Uniform Traffic Devices Manual, the council, upon the basis of an engineering and traffic investigation, finds that the general speed limits set out above are greater or less than is reasonable or safe under the conditions found to exist at the particular intersections or parts of the city street system and therefore declares the maximum speed limits to be as set out in section 3.07 at the places named.

(Code of Iowa, Sec. 321.290)

3.07 SPEED LIMIT CHANGES ON DESIGNATED STREETS. It is hereby declared that the maximum speed limit upon the following streets or portions thereof described shall be:

1. North Fulton: from Leroy Paulsen St. to the north end of Warden Park shall be 20 m.p.h.
2. Leroy Paulsen: from North Fulton to North Clark St. shall be 15 m.p.h.
3. Armstrong Rd (200th Avenue): from the intersection of Armstrong Rd and IA Highway 7 to Jensen St. shall be 35 m.p.h. and from the intersection with Jensen St. to intersection with Chaney St. shall be 45 m.p.h.
4. County Road M54 (210th Avenue and Rogers Road): from 1000 feet South of 3rd St. to the intersection with 3rd St. shall be 45 m.p.h. and from the intersection with 3rd St. to the intersection with LeRoy Poulson Rd shall be 35 m.p.h. and from the intersection with LeRoy Poulson Rd to the intersection with Chaney St. shall be 45 m.p.h.
5. The speed limit shall be 45 mph 800 feet east of N Fulton Street on E Chaney Street to Rogers Road.

(Editor's Note: Section 3.07(5) was added by Ordinance 21, approved by Council on December 6, 2004)

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

(Code of Iowa, Sec. 321.231)

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ARTICLE 4 - TURNING REGULATIONS

- 4.01 AUTHORITY TO MARK. 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 by the state law be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(Code of Iowa, Sec. 321.311 & 321.2 55)

- 4.02 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

- 4.03 SIGNAL REQUIREMENTS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning when the speed limit is forty-five (45) miles per hour or less. The required signals may be given either by means of the hand and arm as provided in the Code of Iowa or by a mechanical or electrical directional signal device or light of a type approved by the department and conforming to the provisions of the Code of Iowa.

(Code of Iowa, Sec. 321.315)

- 4.04 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection; provided however, that "U" turns are prohibited at intersections within the business district, at intersections where there are automatic traffic signals and on the following streets:

(Code of Iowa, Sec. 321.255 & 321.236(9))

NONE

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ARTICLE 5 - PARKING REGULATIONS

5.01 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 or within ten (10) feet of a crosswalk at an intersection.
(Code of Iowa, Sec. 321.236(1) & 321.358(5))
2. **CENTER PARKING.** On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236(1))
3. **MAILBOXES.** Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236(1))
4. **SIDEWALKS.** On or across a sidewalk.
(Code of Iowa, Sec. 321.358(1))
5. **DRIVEWAY.** In front of a public or private driveway.
(Code of Iowa, Sec. 321.358(2))
6. **INTERSECTION.** Within an intersection of any street.
(Code of Iowa, Sec. 321.358(3))
7. **FIRE HYDRANT.** Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358(4))
8. **STOP SIGN OR SIGNAL.** Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358(6))
9. **FIRE STATION.** Within twenty (20) feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358(9))
10. **EXCAVATIONS.** Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358(10))

11. **DOUBLE PARKING.** On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 (Code of Iowa, Sec. 321.358(11))
12. **HAZARDOUS LOCATIONS.** When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the police chief may cause curbings to be painted with a yellow color and erect no parking or standing signs.
 (Code of Iowa, Sec. 321.358(13))
13. **THEATERS, HOTELS, AND HOSPITALS.** A space of fifty (50) feet is reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, 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. **PUBLIC ALLEY.** In any public alley within the fire limits of this city.
 (Code of Iowa, Sec. 321.236(1))
15. **PRIVATE ALLEY.** In any private alley within the fire limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.
 (Code of Iowa, Sec. 321.236(1))
16. **STATE HIGHWAY INTERSECTING STREETS.** On the minor street approach for a distance of thirty-five (35) feet in advance of the stop sign or on the exit side of the minor street for a distance of thirty-five (35) feet of any State Highway.
17. **RAILROAD CROSSING.** Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
 (Code of Iowa, Sec. 321.358(8))
18. **SNOW AND ICE REMOVAL.** Upon any street within the corporate limits when snow or ice removal is necessary.
19. **NO PARKING ALLOWED.** Upon any of the following areas within the corporate limits:
 - a. East side of Lake St.
 - b. North side of Walnut St.

c. For Car Wash Property at corner of S. Madison St and W 1st St

1. On S. Madison St-No parking from here to corner with arrow pointing north.
2. On W 1st St- No parking from here to corner with arrow pointing west.

(Ordinance 253 added section 5.01(c))

d. North and South side of E 3rd St from Clark St to Rogers Road.

(Ordinance 256)

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

21. 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))

22. 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 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))

5.02 PARKING ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle twenty-four (24) inches off the travelled portion 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.

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

(Code of Iowa, Sec. 321.361)

- 5.04 ANGLE PARKING. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings.

(Code of Iowa, Sec. 321.361)

- 5.05 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the municipal code, any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the police chief to erect or cause to be erected appropriate signs giving notice, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal and the provisions of this section shall not apply to Sections 5.01, 5.07, and 5.08. When the signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

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

- 5.06 PARKING PROHIBITED. It shall be unlawful to park any vehicle for a continuous period between 8:00 a.m. and 4:00 p.m., during school session, any time upon the following designated streets:

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

1. On 1st St. five hundred (500) feet west.

- 5.07 VEHICLE UNATTENDED. Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by any ordinance of this city the officer or other authorized person finding such vehicle shall attach a written summons as hereinbefore provided to such vehicle in a conspicuous place and the driver of such vehicle shall be held to appear at the time and place designated in the summons.

- 5.08 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon the roadway for any of the following principal purposes:

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

1. DISPLAY SALE VEHICLE. Displaying such vehicle for sale.
2. MAINTENANCE. For washing, greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
3. ADVERTISING. Displaying advertising.
4. SELLING FROM VEHICLE. Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the city code.
5. STORAGE. Storage or as junk or dead storage for more than forty-eight (48) hours.

5.09 METERED PARKING ZONES. When parking meters are erected adjacent to a space marked for parking and giving notice thereof, such space shall be a metered parking zone. The following shall apply to metered parking:

1. PARKING TIME PERIOD. No person shall stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by said parking meters upon the deposit of a coin of United States currency of the denomination designated on said meters on any day except Sundays and full legal holidays.
2. VEHICLE OPPOSITE METER. Every vehicle shall be parked wholly within the metered parking space for which the meter shows a parking privilege has been granted. In areas designated for angle parking the front end of such vehicle shall be immediately opposite the parking meter for such space.
3. VIOLATIONS. It is a violation of this section for any person to deposit or attempt to deposit in any parking meter anything other than a lawful coin of the United States, or any coin that is bent, cut, torn, battered or otherwise misshapen. It is a violation of this section for any unauthorized person to remove, deface, tamper with, open, willfully break, destroy or damage any parking meter, and no person shall willfully manipulate any parking meter in such a manner.

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

1. City Hall/Library - 2nd St.
2. Newell/Fonda School System - Clark St.
3. Warden Park - Leroy Paulsen Road
4. Warden Park - North Fulton
5. Newell Medical Clinic - W 2nd St

(Editor's Note: Section 5.10 was amended by Ordinance 198, approved by City Council on January 7, 2002)

5.11 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 person with disabilities parking space, located on either public or private property, constitute improper use of a person with disabilities parking permit, which is a violation of this Code of Ordinances:
(Code of Iowa, Sec. 321L.4(2))

- a. Use by motor vehicle not displaying a handicapped parking permit:
 - b. Use by a motor vehicle displaying a handicapped permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly persons being so transported in a vehicle displaying a removable placard in accordance with section 321L.2 (1b) of the Iowa Code;
 - c. Use by a motor in vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
 - d. Scheduled Violation. A violation of this subsection 2 is a scheduled violation and subject to a fine of Two Hundred Dollars (\$200.00).
(Code of Iowa, Sec. 805.8A (1c))
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.
 - c. For a parking violation under section 321L.2A of the Code of Iowa, subsection 2, the scheduled fine is twenty dollars (\$20.00).
(Code of Iowa, Sec. 805.8A (1b))
- 5.12 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency call, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.
- 5.13 PROHIBITED PARKING DURING SNOW EMERGENCY. 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 proclaimed by the mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of such storm except as above provided upon streets which have been fully opened.

Such a ban shall be uniform application and the Chief of Police is directed to widely publicize the requirements, using all available news media, in early November each year. When prediction or occurrences indicate the need, the mayor shall proclaim a snow emergency and the police chief shall inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

- 5.14 PARKING SIGN REQUIRED. Whenever by this or any other ordinance of this city any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Chief of Police, Water Superintendent, or Street Superintendent to erect appropriate signs giving notice thereof and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense. When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.
- 5.15 HANDICAPPED PARKING SPACES. The city council shall create handicapped parking spaces in the number and in the dimension as required by federal and Iowa statutes or regulations.
- 5.16 PARKING PROHIBITED. There shall be no parking in the area twenty-four (24) feet south of the centerline on Highway 7 and 100 feet west of the centerline of Nelsen Street, within this twenty-four (24) feet.
- 5.17 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 officer or traffic or in compliance with the direction of a peace officer or control signal.
(Code of Iowa, Sec. 321.236 (11))
- 5.18 PARKING ON PRIVATE PROPERTY. It is unlawful for any person to park a motor vehicle on private property not his/her own without the consent of the owner of the property, his/her agent or other person in charge thereof.

CHAPTER 1: TRAFFIC CODE

ARTICLE 6 - STOP AND YIELD

- 6.01 VEHICLES ENTERING STOP INTERSECTION. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line, or before entering the crosswalk, or before entering the intersection, or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.
(Code of Iowa, 321.322(1))
- 6.02 STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following intersections from the directions indicated:

SEE ATTACHED MAP
- 6.03 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 he/she is operating.
- 6.04 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area, and thereafter the driver shall proceed into the sidewalk area only when the driver can do so without danger to pedestrian traffic and the driver shall yield the right of way to any vehicular traffic on the street into which the driver vehicle is entering.
(Code of Iowa, Sec. 321.353)
- 6.05 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his or her vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the driver shall have passed through such school crossing zone.
(Code of Iowa, Sec. 321.249)
- 6.06 VEHICLES ENTERING YIELD INTERSECTION. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the

intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(Code of Iowa, Sec. 321.322(2))

- 6.07 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the foregoing section, at the following intersections if approaching from the directions indicated:

SEE ATTACHED MAP

- 6.09 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

CHAPTER 1: TRAFFIC CODE

ARTICLE 7 - ONE WAY STREETS

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

NONE

- 7.02 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT. The police chief is authorized to determine and recommend to the council certain streets, or specified lanes upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day, and shall upon authority given by ordinance place and maintain appropriate markings, signs, barriers or other devices to give notice.

1. ERECT SIGNS. The police chief may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
2. VIOLATION. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.
3. STREETS LISTED. The following streets may have variable lanes or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

NONE

CHAPTER 1: TRAFFIC CODE

ARTICLE 8 - TRAFFIC CONTROL DEVICES

- 8.01 INSTALLATION. The police chief shall cause to be placed and maintained traffic control devices when and as required under the Traffic Code of this city to make effective its provisions; emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate traffic under the traffic code of this city or under state law, or to guide or warn traffic. The police chief shall keep a record of all such traffic control devices.
(Code of Iowa, Sec. 321.254, 321.236(2) & 321.255)
- 8.02 CROSSWALKS. The 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), 321.236(2) & 321.255)
- 8.03 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 this city. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.
(Code of Iowa, Sec. 321.255 & 372.13(4))
- 8.04 STANDARDS. Traffic control devices shall comply with standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.
- 8.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.
(Code of Iowa, Sec. 321.256)
- 8.06 MOVING OR DAMAGING DEVICE. It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City."
- 8.07 TRAFFIC CONTROL DEVICES. The Council shall establish by the resolution and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersection, yield right-of-way intersection, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power by resolution to designate and indicate intersections at which traffic shall be controlled by traffic signals; intersections at which

left turns, right turns and U-turns shall be prohibited; intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.

CHAPTER 1: TRAFFIC CODE

ARTICLE 9 - LOAD AND WEIGHT REQUIREMENTS

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

(Code of Iowa, Sec. 321.471 & 321.472)

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

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

- 9.03 LOAD LIMITS ON BRIDGES. Where it has been determined by the council, upon engineering advice, 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. 321.473)

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

1. THROUGH TRUCKS. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the city or making no scheduled or definite stops within the city for the purpose of loading or unloading shall travel over or upon the following streets within the city and none other:
 - a. On First (1st) St. from Armstrong Road to Fulton St.
 - b. North and South Fulton St.
 - c. On all of Third (3rd) St.
2. TRUCKS WITH SCHEDULED STOPS. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the city for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest

point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

3. OWNER'S RESPONSIBILITY. The owner, or any other person employing or otherwise directing the driver of any vehicle, shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.472)

CHAPTER 1: TRAFFIC CODE

ARTICLE 10 - PEDESTRIANS

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

CHAPTER 1: TRAFFIC CODE

ARTICLE 11 - BICYCLES

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

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

CHAPTER 1: TRAFFIC CODE

ARTICLE 12 - ENFORCEMENT

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

1. IMMEDIATE ARREST. Immediately arrest such person and take him or her before a local magistrate.
2. ISSUE CITATION. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the city law enforcement agency.
(Code of Iowa, Sec. 805.6 & 321.485)

12.02 PARKING VIOLATIONS. Admitted violations of any parking restrictions imposed by this chapter may be charged upon a simple notice of a fine in accordance with the following schedule, payable at the office of the city clerk or Chief of Police. If payment for a parking violation is not received within thirty (30) days, then a certified letter will be sent to the violator. If the payment for the said violation is not paid within seven days (7) of the time the certified letter is sent, then the Newell Police Department shall issue a State of Iowa citation against said violator.

1. HANDICAP PARKING VIOLATIONS. The penalty for violating the handicap parking provisions in section 5.10 of this Chapter shall be one-hundred dollars (\$100.00) providing such penalty is paid within forty-eight (48) hours of the time of the violation.
2. OTHER VIOLATIONS. For any violation of this chapter or Chapter 2 of this Title, except as may be otherwise noted, the penalty shall be twenty-five dollars (\$25.00) providing such penalty is paid within forty-eight (48) hours of the time of violation.

(Editor's Note: Section 12.02(2) was amended by Ordinance 215, approved by Council on May 8, 2008)

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

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

1. **DISABLED VEHICLE.** When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
(Code of Iowa, Sec. 321.236(1))
2. **ILLEGALLY PARKED VEHICLE.** When any vehicle is left unattended upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.
(Code of Iowa, Sec. 321.236(1))
3. **PARKED OVER FORTY-EIGHT HOUR PERIOD.** When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found the owner shall be given an opportunity to remove the vehicle.
(Code of Iowa, Sec. 321.236(1))
4. **PARKED IN VIOLATION OF SNOW EMERGENCY.** When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the mayor.

(Code of Iowa, Sec. 321.236(1))
5. **COSTS.** In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.
(Code of Iowa, Sec. 321.236(1))

12.05 SCHEDULED VIOLATIONS. For violation of the Traffic Code which is designated by Section 805.8A of Code of Iowa to be scheduled violations, the schedule fine for each of those violations shall be specified in Section 805.8A of the Code of Iowa.

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 13 - STREET AND ALLEY REGULATIONS

- 13.01 OBSTRUCTING OR DEFACING STREETS. It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.
(Code of Iowa, Sec. 716.1)
- 13.02 INJURING NEW PAVEMENT. It shall be unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.
(Code of Iowa, Sec. 364.12(2))
- 13.03 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.
(Code of Iowa, Sec. 321.369)
- 13.04 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person to willfully remove, throw down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed for the purpose of guarding or enclosing unsafe or dangerous places in a highway, street, alley, avenue or bridge without the consent of the person in control.
(Code of Iowa, Sec. 716.1)
- 13.05 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 therefore. 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.
- Applicant agrees to hold City harmless in regard to any and all claims of injury or damage arising from the acts or omissions of the applicant or applicant's agent

and further agrees to comply with 29CFR Part 1926.650, 651, 652 as adopted by the Iowa Division of Labor.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) 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 one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$500,000.00 per person; \$1,000,000.00 per accident.
 - B. Property Damage - \$1,000,000.00 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. All excavation shall be mechanically compacted in lifts not to exceed 12 inches. All excavation that requires pavement removal shall, before replacing, include sawing all paving edges and the paving will be replaced with six inches of 3500 psi concrete. In the event that the excavation is under a street, driveway, sidewalk or any other paving, the paving shall be replaced within 72 hours after the completion of the excavation. The City has the right to finish any improper or unfinished work to protect the public from harm. The permit holder/property owner will bear any expenses incurred. The City will be held harmless by the permit holder/property owner in regard to any and all claims of injury or damage arising from acts or omissions of the authority of the permit. It is the permit holder/property owner's responsibility to protect the public. All barricades and safety fence are the permit holder/property owner's responsibility.

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 therefore 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 Fee. A permit fee set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
 12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
 13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in an amount set by resolution of the Council to guarantee such compliance.
- 13.06 DUMPING OF SNOW. It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition, except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or the property owner's agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.
- (Code of Iowa, Sec. 364.12(2))

- 13.07 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any city official, police officer or member of the fire department.
- 13.08 PLAYING IN STREETS. It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by authority of the police chief for such purposes.
(Code of Iowa, Sec. 364.12(2))
- 13.09 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when much work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his/her own vehicle or equipment when it is lawfully parked in the street.
- 13.10 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any new or used car or cars, machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale or offering same for sale, without permission of the council.
- 13.11 TO REGULATE RURAL ROUTE MAILBOXES.
1. PURPOSE. To regulate rural route mailboxes. The face of the rural route mailboxes should be placed at least twenty-four (24") inches from the edge of the street.
 2. RESPONSIBILITY. The City of Newell will not be responsible for any damages done to the mailboxes during snow removal by the city. The City of Newell will be responsible for placing rock for the approach for mail delivery.
- 13.12 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the butting property owner to maintain all property outside the lot and property line 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 in 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 (c))
- 13.13 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12 (2e))

- 13.14 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.
- 13.15 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the costs of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.
- 13.16 SIGN POST. No person shall erect or maintain any sign post, or other post or pole for any purpose on any street or alley right-of-way, except by permission of the council.

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 14 - NAMING OF STREETS

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

1. EXTENSION OF EXISTING STREET. Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.
2. ORDINANCE. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
3. STREET COMMISSION. Proposed street names shall be referred to the (planning and zoning commission) (council) for review and recommendation before placing on plats or presentation of a street name ordinance, or placing on the official map.

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

(Code of Iowa, Sec. 354.26)

14.03 OFFICIAL STREET NAME MAP. Streets within the city are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this article. The Official Street Name Map shall be identified by the signature of the mayor, and bearing the seal of the city under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 14.03 of Title IV of the Municipal Code of Newell.

(Code of Iowa, Sec. 354.26)

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

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

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

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 15 - VACATION AND DISPOSAL

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

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

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

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

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

(Code of Iowa, Sec. 364.15)

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

(Code of Iowa, Sec. 364.7)

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

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

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 16 - STREET GRADES

- 16.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks which have been established by ordinance are hereby confirmed, ratified and established as official grades.
- 16.02 RECORD MAINTAINED. The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request. The ordinances that established the official grades of streets, alleys and sidewalks are:
1. ORDINANCE NUMBER 163
 2. ORDINANCE NUMBER 170
 3. ORDINANCE NUMBER 188
 3. ORDINANCE NUMBER 195
 4. ORDINANCE NUMBER 227
 5. ORDINANCE NUMBER 263

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 17 - DRIVEWAYS

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

1. "DRIVEWAY" shall mean 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" shall include any kind of hard surfacing including, but not limited to, portland cement concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials, with the necessary base. "Paving" shall not include surfacing with oil, unstabilized gravel, oil and gravel, or chloride.

17.02 SIDEWALKS. The grade of any sidewalk already at proper grade shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk, except as expressly permitted by the council upon recommendation of the public works superintendent.

17.03 EXCAVATIONS. Excavations to do work under this article 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 placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation, the earth must be placed in layers and each layer tamped thoroughly. 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. The affected area shall be maintained in good repair to the satisfaction of the city council for three months after refilling.

17.04 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the superintendent within thirty (30) days after completion of the work. The superintendent shall keep a record of such approvals in his/her office. If the superintendent refuses to approve the work, it must be corrected immediately so that it will meet with his/her approval. If the work has been done improperly, the superintendent 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.

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 18 - SNOW REMOVAL AND STREET CLEANING

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

1. "SNOW PLOWING" shall mean the pushing of snow by mechanical means from the center of the traveled portion of the street to the outside edges of the traveled portion of the street.
2. "SNOW REMOVAL" shall mean the loading and hauling away of snow from the street right-of-ways.
3. "STREET CLEANING" shall mean the washing, sweeping and loading of dirt and debris from the street by mechanical or manual means.

18.02 WINTER PARKING. On snow days motor vehicle parking shall be restricted as follows:

1. No parking on any city streets from 2:00 a.m. to 6:00 a.m. from November 1 to April 1.

18.03 SNOW REMOVAL. To facilitate the removal of snow, special and temporary no parking areas will be established at the direction of the police chief by placement of temporary "NO PARKING, SNOW REMOVAL" signs along the street. These signs shall be placed at least two (2) hours before work is to begin and shall not be enforced for one hour after they are placed.

18.04 ENFORCEMENT. The police chief shall be responsible for the enforcement of said special parking restrictions when they are in effect. When a motor vehicle is parked in violation of the special parking restrictions, a police officer shall attempt to locate the owner of the vehicle to have it removed. If the owner cannot be located after reasonable attempts, the vehicle shall be towed away at the direction of the police officer, and the cost of the towing shall be charged to the owner of the vehicle.

18.05 SPECIAL PENALTY. Any person who violates or fails to comply with the provisions of this article shall be guilty of a simple misdemeanor and shall be fined in accordance with the amount set forth in the Newell Traffic Code for parking violations.

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 19 - RAILROAD CROSSINGS

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

1. "RAILROAD TRAIN" shall mean an engine or locomotive with or without cars coupled thereto, operated upon rails.
(Code of Iowa, Sec. 321.1(29))
2. "OPERATOR" shall mean a person that owns, operates, drives or controls a railroad train.

19.02 WARNING SIGNALS. Operators shall sound a horn at least sixty (60) rods before a motor vehicle crossing is reached and shall provide audible warning continuously until the crossing is passed.

19.03 FLYING SWITCHES. No operator shall cause any railroad car unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad is stationed at the intersection to give warning of cars approaching.

19.04 BLOCKING STREETS. A railroad corporation or its employees shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of ten minutes except:

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking any object or person on the track.
3. When the train is disabled.
4. When necessary to comply with the governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
(Code of Iowa, Sec. 327G.32)

19.05 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 20 - BUILDING NUMBERING

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

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

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

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

20.03 BUILDING NUMBERING MAP. The clerk shall be responsible for preparing and maintaining a building numbering map, in accordance with the following provisions, and filing it in his/her office.

1. **BASE LINES.** Fulton St. constitutes the base line for the numbering system as applied to streets running east and west. Illinois Central Railroad constitutes the base line for the numbering system as applied to streets running north and south.
2. **DIAGONAL AND CURVED STREETS.** Diagonal and curved streets are classified as east and west or north and south streets depending in which classification their general alignment most nearly conforms.
3. **EVEN NUMBERS.** Even numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the south side of streets running east and west.

4. ODD NUMBERS. Odd numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the north side of streets running east and west.
 5. ASSIGNMENT OF NUMBERS TO PROPERTIES. Each principal building shall be assigned a number in accordance with the provisions of this section. In case there are vacant lots or double lots, numbers shall be reserved to provide for an orderly numbering system when the lots are occupied or divided.
- 20.04 ISSUE NUMBERS. The clerk shall issue the assigned number in accordance with the numbering map to owners upon their request.
- 20.05 ENFORCEMENT. The clerk shall be responsible for enforcing the provisions of this article.

CHAPTER 3: SIDEWALKS

ARTICLE 21 - SIDEWALK REGULATIONS

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

1. "SIDEWALK" shall mean all permanent public walks in business, residential or suburban areas.
2. "ESTABLISHED GRADE" shall mean that grade established by this city for the particular area in which a sidewalk is to be constructed.
3. "BROOM FINISH" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
4. "WOOD FLOAT FINISH" shall mean a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.
5. "PORTLAND CEMENT" shall mean any type of cement except bituminous cement.
6. "ONE-COURSE CONSTRUCTION" shall mean that the full thickness of the concrete is placed at one time, using the same mixture throughout.
7. "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.
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.

21.02 RESPONSIBILITY FOR MAINTENANCE. It shall be the responsibility of the abutting property owners to maintain in a safe and hazard free condition any sidewalk outside the lot and property lines and inside the curb lines or travelled portion of the public street.
(Code of Iowa, Sec. 364.12(2c))

21.03 FAILURE TO MAINTAIN - PERSONAL INJURIES. If the abutting property owner does not maintain sidewalks as required and action is brought against the city for personal injuries alleged to have been caused by its negligence, the city may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the city believes that the person notified is liable to it for any judgment rendered against the city, and asking the person to appear and defend. A judgment

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

(Code of Iowa, Sec. 364.14)

- 21.04 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required the council may serve notice on such owner, by certified mail, requiring the abutting property 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))

- 21.05 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. MATERIAL. Portland cement concrete shall be the only material 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 placed so that the surface will be to the established grade at its location.
5. LENGTH, WIDTH AND DEPTH.
 - a. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
 - b. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length and width.
 - c. Driveway areas shall not be less than six (6) inches in thickness.
6. LOCATION. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the council shall establish a different distance due to circumstances.

7. GRADE. Curb tops shall be on level with the center line of the street which shall be the established grade.
8. ELEVATIONS. The street edge of a sidewalk shall be at an elevation even with the curb when at the curb and not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk in residential areas.
9. SLOPE. All sidewalks shall slope 0.25 inch per foot toward the curb.
10. FINISH. All sidewalks shall be finished with a "broom" or "wood float" finish.
11. RAMPS FOR HANDICAPPED. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty inches wide, shall be sloped at not greater than one (1) inch of rise per twelve inches lineal distance, except that a slope no greater than one (1) inch or rise per eight inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

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

21.06 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a building permit from the Zoning Administrator. Said person shall agree in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

In addition, as to permanent sidewalk removal, the Board of Adjustments must also approve the action following the public hearing procedure. Any sidewalk to be removed or installed must go through a review process.

- A. No sidewalk shall be removed within 10 days of the Board of Adjustment's decision.
 1. Any person aggrieved by the Board of Adjustments decision shall have 10 days to appeal the decision to the City Council, until the City Council decides the appeal, the sidewalk will not be removed.

(Editor's Note: Ordinance 266 Amended Section 21.06)

21.07 OPENINGS AND ENCLOSURES. It shall be unlawful for a person to:

1. **STAIRS AND RAILINGS.** Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the council.
2. **OPENINGS.** Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. **PROTECT OPENINGS.** Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

21.08 ENCROACHING STEPS. It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.

21.09 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

21.10 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It shall be the responsibility of the abutting property owners to promptly remove from the sidewalk's natural accumulations of snow and ice (including ice formed from water flowing onto the walk and freezing). In the Newell Commercial Districts as defined in the Newell Zoning Ordinance, a reasonable time shall be twelve (12) hours from the cessation of snowfall. In all other areas of the City, a reasonable time shall be deemed to be forty-eight (48) hours from the cessation of snowfall. If an abutting property owner does not remove snow and ice within the time specified in this Section, the City may do so and assess the costs, including a reasonable administration fee, against the property owner for collection in the same manner as a property tax pursuant to Section 364.12(2)(e) of the Code of Iowa.

(Ordinance 262)

21.11 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.

21.12 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.

21.13 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

- 21.14 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.
(Code of Iowa, Sec. 364.12(2))
- 21.15 MERCHANDISE DISPLAY. It shall be unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to a building in the business district be occupied for such purposes.
- 21.16 SALES STANDS. It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the clerk.
- 21.17 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.
(Code of Iowa, Sec. 384.38)
- 21.18 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.
- 21.19 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.

- 21.20 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.

CHAPTER 4: SNOWMOBILES

ARTICLE 22 - GENERAL PROVISIONS

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

1. "SNOWMOBILE" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow and ice.

(Code of Iowa, Sec. 321G.1 (18))

2. "OPERATOR" shall mean a person who operates or is in actual physical control of a snowmobile.
3. "OPERATE" shall mean to ride in or on and control the operation of a snowmobile.
4. "STREET" shall mean a public thoroughfare, roadway, alley, or trail used for motor vehicular traffic including an interstate, state, or county highway.
5. "SHOULDER" shall mean the portion of a street immediately adjacent to the right side of a street which is customarily used only for emergency travel and parking.
6. "DEAD MAN THROTTLE" shall mean a device which disengages the motor from the driving track of a snowmobile when pressure is removed from the accelerator or throttle.

22.02 AGE OF OPERATION. No minor under 16 years of age may operate a snowmobile within the corporate limits of the City.

22.03 OPERATION OF SNOWMOBILE. A snowmobile may not be operated on any street, shoulder of a street, sidewalk, public property, city park, or any other area within the corporate limits of the city except as specifically permitted as follows:

1. **PRIVATE PROPERTY.** On the private property of the operator or owner of a snowmobile or on any other private property in the city with the consent or permission of the property owner.
2. **PUBLIC PROPERTY.** On public property with the exception of the area of the driving range without the consent of the city council.
3. **MOST DIRECT ROUTE.** When emergency conditions are not present as stated in subsection 3 above, then the operation of a snowmobile is permitted on City streets, as long as the operator of the snowmobile takes the most direct or point-to-point route, whether it be from a starting point within the City's Corporate Limits to

outside the City, or be it from outside the City to a point or destination within the City. A starting point or point of destination within the City means one's place of residence, employment, or gas station. A direct route is not, or in any combination thereof, any two destinations or points within the City. A snowmobile may not be operated on the following streets or portions thereof:

- a. Snowmobiles shall not be operated at any time on Fulton Street from First Street to Third Street. No crossing of Fulton Street is allowed at Second Street at any time.
4. Snowmobiles shall not be operated on public sidewalks except for purposes of crossing same to a public street upon which is authorized by this ordinance.
5. On streets in an emergency during the period of time when at locations where snow and ice upon the streets render travel by conventional motor vehicles impractical and unsafe.

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

22.04 ADEQUATE SNOW AND ICE COVER. A snowmobile may not be operated within the city on public or private property without adequate snow or ice cover. A snow or ice cover of no less than one (1) inches shall be deemed adequate.

22.05 CROSSING OF STREET. A snowmobile may make a direct crossing of a street or highway provided:

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

1. NINETY DEGREE ANGLE. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing; and
2. COMPLETE STOP. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled portion of the street, and
3. YIELD TO TRAFFIC. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
4. CROSSING AT INTERSECTION. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

22.06 REQUIRED EQUIPMENT. All snowmobiles operated within the city shall have the following equipment:

1. MUFLER.

- a. The exhaust of every internal combustion engine used in any snowmobile shall be effectively muffled by equipment constructed and used to muffle all snowmobile noise in a reasonable manner in accordance with rules adopted by the Department of Natural Resources.
- b. A separate placard shall be affixed, permanently and conspicuously, to any new snowmobile sold or offered for sale in this state that does not meet the muffler requirements as stated above. The placard shall designate each snowmobile which does not meet the muffler requirements.
- c. A snowmobile manufactured after July 1, 1975, which is sold, offered for sale or used in this state, except in an authorized special event, shall have a muffler system that limits engine noise to not more than seventy-eight decibels as measured on the "A" scale at a distance of fifty feet.

2. LIGHTS. At least one headlight and one taillight.
(Code of Iowa, Sec. 321G.12)

3. BRAKES. Brakes which conform to standards prescribed by the commissioner of public safety.

4. SAFETY THROTTLE. A safety or "dead man" throttle in operating condition.

22.07 UNLAWFUL OPERATION. It shall be unlawful for any person to operate any snowmobile in the city in the manner described:

1. SPEED. At a rate of speed greater than twenty (20) miles per hour, provided the circumstances are not such that a lesser speed would be prudent.
(Code of Iowa, Sec. 321G.13 (1a))
2. CARELESS MANNER. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
(Code of Iowa, Sec. 321G.13 (1b))
3. UNDER THE INFLUENCE. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
(Code of Iowa, Sec. 321.13(1c))
4. IMPROPER EQUIPMENT. Without a proper headlight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render

clearly discernible persons and vehicles at a distance of 500 feet ahead; or without proper equipment as required by Section 22.07 of this Article.

(Code of Iowa, Sec. 321G.13 (1d))

5. IN TREE NURSERY. In any tree nursery or planting in a manner which damages or destroys growing stock.
(Code of Iowa, Sec. 321G.13 (5))
6. FIREARMS. A person shall not operate or ride a snowmobile with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. Refer to Iowa Code for possession of firearm and person having a concealed to carry permit.
7. UNREGISTERED SNOWMOBILE. Without having such snowmobile registered as provided for by Iowa law except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his or her immediate family.
 - a. The owner shall display the registration decal or nonresident user permit decal on a snowmobile in the manner prescribed by the rules of the commission.
(Code of Iowa, Sec. 321G.5)
8. FINANCIAL RESPONSIBILITY / NEGLIGENCE. The owner or operator of a snowmobile must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B. The owner and operator of a snowmobile are liable for any injury or damage caused by the negligent operation of the snowmobile.
9. UNATTENDED VEHICLE. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.
10. UPON 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. This paragraph does not apply to a law enforcement officer or railroad employee in the lawful discharge of the officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
(Code of Iowa, Sec. 321G.13 (1h))
11. NOISE. It is unlawful to operate a snowmobile in a manner as to create a loud, unnecessary or unusual noise so as to disturb with the peace and quiet of other persons.

- 22.08 TOWING. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.
- 22.09 SINGLE FILE. Snowmobiles shall, only when permitted on the travelled way, be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.
- 22.10 ACCIDENT REPORTS. Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with the State law.

CHAPTER 5: ALL-TERRAIN VEHICLES

ARTICLE 23 - GENERAL PROVISIONS

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

1. "ALL-TERRAIN VEHICLE" or "ATV" means a motorized (gasoline powered) 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(1)(a))
2. "OFF-ROAD UTILITY VEHICLE" or "ORV" means a motorized vehicle with not less than four and not more than eight non-highway tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently titled under Iowa Code Chapter 321 shall not be registered or operated as an off-road utility vehicle.
(Code of Iowa, Sec. 321I.1(16) (a))
3. "OPERATE" shall mean to ride in or on other than as a passenger, use, or control the operation of an ATV or ORV in any manner, whether or not the ATV or ORV is moving. (Code of Iowa, Sec. 321I.1 (17))
4. "OPERATOR" shall mean a person who operates or is in actual physical control of an ATV or ORV. (Code of Iowa, Sec. 321I.1 (18))
5. "ROADWAY" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
6. "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 travel, except in public areas in which the boundary shall be thirty-three feet each side of the center line of the roadway. Includes roadway, alley, or trail used for vehicular traffic including a state or county highway.

23.02 GENERAL REGULATIONS. No person shall operate an ATV or ORV within the City limits of Newell, Iowa in violation of the provisions of Chapter 321, 321G and 321I of the Code of Iowa or rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

23.03 OPERATION OF ATVs AND ORVs. The operators of ATVs and ORVs shall comply with the following restrictions as to how and where ATVs and ORVs may be operated within the City:

1. **STREETS.** Permitted ATVs and ORVs may be operated upon streets under the jurisdiction and within the corporate city limits of Newell. ATV's and ORV's shall not be operated upon any City street which is a primary road extension or state highway through the City, to wit:
2. **TRAILS.** ATVs and ORVs shall not be operated on bike trails, walking trails or snowmobile trails except where so designated.
3. **PRIVATE PROPERTY.** ATVs and ORVs may only be operated on private property with the express consent of the owner.
4. **SIDEWALK OR PARKING.** No ATV or ORV shall be operated upon sidewalks unless engaged in snow removal or maintenance activities, nor shall they be operated upon that portion of the street from the curb to the sidewalk or property line, commonly referred to as the "parking", or any off-street right-of-way, except for the purpose of snow removal, maintenance or landscaping activities.
5. **PARKS OR OTHER CITY LAND.** A permit may be issued for the operation of an ATV or ORV in City parks or other City land for special events authorized by the City Council.
6. **OPERATOR LICENSE.** No person shall operate an ATV on the public street of the City without a valid motor vehicle operator's license and who is not either (a) at least 16 years of age and in possession of a valid ATV education certificate issued by the IDNR, or (b) at least 18 years of age. No person shall operate an ORV on the public street of the City without a valid motor vehicle operator's license and who is not at least 18 years of age.
7. **EQUIPMENT.** All ATVs and ORVs shall be equipped according to the following provisions:
 - a. **Mufflers.** No person shall operate an ATV or ORV that is constructed or altered in a manner that noise emitted from the machine exceeds 96 decibels on the A scale when measured in the manner prescribed in the revised 2008-05, Society of Automotive Engineers Standard J1287, titled "Measurement of Exhaust Sound Pressure Levels of Stationary Motorcycles."
 - b. **Headlamp, Tail Lamp, Brakes.** Every ATV and ORV shall be equipped with a headlight and taillight which shall remain lighted at all times during operation. Every ATV and ORV shall be equipped with brakes in good working condition. (Code of Iowa, Sec 321I.13).

8. TRAFFIC CODE OBSERVED. Any operator of any ATV or ORV must observe all state and local traffic control regulations and devices and shall not operate an ATV or ORV at a speed in excess of that posted, nor at any time operate an ATV or ORV at a speed greater than is reasonable and proper under the existing conditions.
9. UNATTENDED ATVS OR ORVS AND PARKING. No owner or operator of an ATV or ORV shall leave the ATV or ORV unattended on public property while the motor is running or with keys in the ignition switch. Owners and operators of ATVs or ORVs must obey all parking regulations in the City.
10. REGISTRATION. The owner or operator of an ATV or ORV must maintain current vehicle registration as required by Iowa law.
11. FINANCIAL RESPONSIBILITY / NEGLIGENCE. The owner or operator of an ATV or ORV must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B. The owner and operator of an ATV or ORV are liable for any injury or damage caused by the negligent operation of the ATV or ORV.
12. CARELESS OPERATION. No person shall operate an ATV/ORV in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
13. DURING EMERGENCY. On streets in an emergency during the period of time when at locations where snow and ice upon the streets render travel by conventional motor vehicles impractical and unsafe.
14. MOST DIRECT ROUTE. When emergency conditions are not present as stated in subsection 13 above, then the operation of an ATV or ORV is permitted on City streets, as long as the operator of the ATV or ORV takes the most direct or point-to-point route, whether it be from a starting point within the City's Corporate Limits to outside the City, or be it from outside the City to a point or destination within the City. A starting point or point of destination within the City means one's place of residence, employment, or gas station. A direct route is not, or in any combination thereof, any two destinations or points within the City. An ATV or ORV may not be operated on the following streets or portions thereof:
"None Listed"
15. HOURS OF OPERATION. Reserved for future use.
16. SPECIAL EVENTS. The City Council may authorize the operation of ATV or ORV for special events authorized by the City Council.

- 23.04 PARKING OF ALL-TERRAIN VEHICLES. Illegal parking of all-terrain vehicles on the streets and highways within the corporate limits of the city will result in a five dollar (\$5.00) fine.
- 23.05 NEGLIGENCE. The owner and operator of an ATV or ORV are liable for any injury or damage caused by the negligent operation of the ATV or ORV. The owner of an ATV or ORV shall be liable for any such injury or damage only if the owner was the operator of the ATV or ORV at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or ORV at the time the injury or damage occurred.
- 23.06 ACCIDENT REPORTS. Whenever an ATV or ORV is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with the State law.
- 23.07 TOWING. No items shall be towed by an ATV or ORV unless coupled to said ATV or ORV by a rigid tow bar.
- 23.08 PENALTIES AND FINES. Any person operating an ATV/ORV in violation of this Chapter of the Code of Ordinances may be charged with violation of State Motor Vehicle Laws or violation of this local Ordinance.
1. FIRST OFFENSE. In the event that said violator is charged under this Ordinance, the first offense shall be a fine of fifty dollars (\$50.00).
 2. SECOND OFFENSE. A fine of one hundred dollars (\$100.00) and a sixty (60) day suspension of privileges to use City Streets
 3. THIRD OFFENSE. A fine of not less than one hundred dollars (\$100.00) and a two (2) year suspension of privileges to use City Streets.
 4. EACH ADDITIONAL OFFENSE. A fine of not less than five hundred dollars (\$500) and a permanent suspension of privileges to use City Streets.

CHAPTER 6: GOLF CARTS

ARTICLE 24 - GENERAL PROVISIONS

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

1. "GOLF CARTS" shall mean any vehicle with three (3) or more wheels, powered either by electricity or an internal combustion engine, which is used and designed primarily for the transportation of golfers and golf clubs upon golf courses.

24.02 OPERATION OF GOLF CARTS.

1. No person shall operate a golf cart upon the city streets and alleys who does not possess a valid motor vehicle driver's license.
2. All golf carts shall be equipped with a slow-moving vehicle sign or a bicycle flag at least 60" in height when operated on the city streets between sunrise and sunset. Any golf cart operated upon the city streets after sunset and before sunrise shall be equipped with the proper headlamps and rear taillights as prescribed by state law.
3. Any golf cart operated on the city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the Newell City Council.
4. Golf carts shall not be operated on the city sidewalks between First Street and Third Street on South Fulton.
5. Any violation of this ordinance shall be deemed a simple misdemeanor.

CHAPTER 7: SKATEBOARD, SCOOTER, AND SKATES ORDINANCE

ARTICLE 25 - GENERAL PROVISIONS

25.01 PURPOSE. The purpose of this ordinance is to provide for the orderly operation of Skateboards, Scooters, and Skates within the City, and to specifically prohibit their use within certain areas designated within the Downtown District (DD).

25.02 DEFINITIONS.

1. CITY – The City of Newell, IA
2. DOWNTOWN DISTRICT (DD) - That portion of the City designated as the Downtown District (DD)
3. SKATEBOARDS, SCOOTERS, and SKATES - Vehicles used for the propulsion of people by human power, not subject to registration under state motor vehicles laws, including but not limited to scooters, skateboards, roller skates, and roller blades. This designation does not include any device operated by a person or a person directly assisting a person, who is unable to walk or otherwise ambulate without the assistance of a human-powered conveyance.
4. OPERATE — To ride upon, drive, propel or otherwise convey oneself or others on skateboards, scooters, and skates.
5. VEHICLE — skateboards, scooters, and skates.

25.03 RESTRICTED.

1. RESTRICTED AREA

- a. Operating to Endanger – No person shall operate a skateboard, scooter, or skates so as to endanger any pedestrian on any public way or in such a manner as might discourage any pedestrian from the peaceful use of such public ways or in such a manner as to interrupt the smooth flow of automobile traffic.
- b. Sidewalks - No person shall operate a skateboard, scooter, or skates on any sidewalk, or public walkway in the area designated as the Downtown District (DD).
- c. Warden Park and Madison Tree Park - No person shall operate to skateboards, scooters, and skates in Warden Park and Madison Tree Park at any time.

- d. Operation Prohibited – The operation of skateboards, scooters, and skates, is prohibited, at times other than special events created by or approved by the City Council, in the area Designated as the Downtown District (DD).

25.04 VIOLATIONS AND PENALTIES. Violation of this article may be punishable by a civil penalty of not less than twenty-five (\$25.00) and not more than two hundred (\$200.00) or by impoundment of the vehicle which was operated in the commission of such violation for a period not to exceed thirty (30) days or both. Community service is considered a viable alternative at the discretion of the courts for payment of fines.

(Editor's Note: Ordinance No. 235 was adopted by City Council on March 7, 2011, which established regulations of Skateboards, Scooters and Skates.)

TITLE V - BUSINESS, OCCUPATIONS, AND BUILDING REGULATIONS

CHAPTER 1: LIQUOR AND BEER CONTROL

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 PURPOSE. The purpose of this chapter is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, morals and general welfare of this community.
- 1.02 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:
1. "Person of Good Moral Character" shall mean any person who meets all of the following requirements:
(Code of Iowa, Sec. 123.3(35))
 - a. Has such financial standing and good reputation as will satisfy the commission and the administrator that he/she will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his or her operations under state law. The administrator shall not require the person to post a bond to meet the requirements of this paragraph.
 - b. Does not possess a federal gambling stamp.
 - c. Is not prohibited by the Code of Iowa from obtaining a liquor license or beer permit.
(Code of Iowa, Sec. 123.40)
 - d. Is a Citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.
 - e. Has not been convicted of a felony. However, if his or her conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his or her rights of citizenship have been restored by the Governor, the administrator may determine that he or she is a person of good moral character notwithstanding such conviction.
 - f. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, administrators and partners of such person, and to any person who directly or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this

provision, an individual and his or her spouse shall be regarded as one person.

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

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

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

(Code of Iowa, Sec. 123.3(13))

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

(Code of Iowa, Sec. 123.3(19))

5. "Pharmacy" shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, Sec. 123.3(36))

6. "Hotel or Motel" shall mean a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.

(Code of Iowa, Sec. 123.3(21))

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

8. "Administrator" shall mean the administrator of the division.

(Code of Iowa, Sec. 123.3(25))

9. "Division" or "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.

(Code of Iowa, Sec. 123.3(17))

- 1.03 STATE LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

1.04 PERSONS UNDER LEGAL AGE.

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

(Code of Iowa, Sec. 123.47 (1))

2. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for the 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 beer permittee under State laws.

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

3. A person who is eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(Code of Iowa, Sec. 123.47 (3))

- a. A simple misdemeanor punishable as a scheduled violation under Code of Iowa section 805.8C, subsection 7.
- b. A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.
- c. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

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

(Code of Iowa, Sec. 123.46)

- 1.06 OPEN CONTAINER IN PUBLIC PLACES. 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. "Passenger area" means the area 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. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under Code of Iowa, section 805.8A, subsection 14, paragraph "e".

(Code of Iowa, Sec. 321.284)

1.07 OPEN CONTAINERS IN MOTOR VEHICLES — PASSENGERS.

1. 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. "*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.
2. This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, motorsports recreational vehicle, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.
3. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under Code of Iowa, section 805.8A, subsection 14, paragraph "e".
4. A person under the age of twenty-one years who violates this section is guilty of a violation of Code of Iowa, section 123.47.

(Code of Iowa, Sec. 321.284A)

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

(Code of Iowa, Sec. 123.46(2))

1.09 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer or wine permit nor his agents or employees shall do any of the following:

1. **INTOXICATED PERSONS.** Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.
(Code of Iowa, Sec. 123.49(1))
2. **HOURS OF OPERATION.** Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.
(Code of Iowa, Sec. 123.49(2b))
3. **CREDIT SALES.** Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.
(Code of Iowa, Sec. 123.49(2c))
4. **Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.**
(Code of Iowa, Sec. 123.49(2d))
5. **Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.**
(Code of Iowa, Sec. 123.49(2e))
6. **EMPLOYMENT OF MINORS.** Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
(Code of Iowa, Sec. 123.49(2f))

7. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.
(Code of Iowa, Sec. 123.49(2g))
8. **REASONABLE CARE.** Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.
(Code of Iowa, Sec. 123.49(2h))
9. **SELLING TO MINORS.** Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer
(Code of Iowa, Sec. 123.49(2h))
10. **MIXING OF ALCOHOLIC BEVERAGE.** In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.
(Code of Iowa, Sec. 123.49(2i))
11. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49(2j))
12. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.
(Code of Iowa, Sec. 123.49(2k))
13. **ADVERTISEMENT FOR ALCOHOLIC LIQUOR, WINE, OR BEER BRAND SIGNS PROHIBITED.** Permit any signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This section does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises, or inside a window facing outward from the premises.
(Code of Iowa, Sec. 123.51)

Any person who violates any of the provisions of Code of Iowa section 123.49, except section 123.49, subsection 2, paragraph “h”, or who fails to affix upon sale, defaces, or fails to record a keg identification sticker or produce a record of keg identification stickers

pursuant to section 123.138, shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 2.

- 1.08 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the Council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the Council for any of the following causes:

(Code of Iowa, Sec. 123.39)

1. **MISREPRESENTATION.** Misrepresentation of any material fact in the application for such license or permit.

(Code of Iowa, Sec. 123.39(1))

2. **VIOLATIONS.** Violations of any of the provisions of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.39(2))

3. **CHANGE IN OWNERSHIP.** Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the City and the division.

(Code of Iowa, Sec. 123.39(3))

4. **ORIGINAL DISQUALIFICATIONS.** Any event which would have resulted in disqualification from receiving such license or permit when originally issued.

(Code of Iowa, Sec. 123.39(4))

5. **SALE OR TRANSFER.** Any sale, hypothecation or transfer of such license or permit.

(Code of Iowa, Sec. 123.39(5))

6. **PAYMENT OF TAXES.** The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.

(Code of Iowa, Sec. 123.39(6))

7. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 1.07 shall, subject to section 1.09, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall

immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

(Code of Iowa, Sec. 123.50(2))

1.09 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the City Council in accordance with the following:

1. **SALE TO MINORS OR "SPIKING".** If any licensee, beer or wine permittee, or employee of such licensee or permittee is convicted of a violation of section 1.07(5) or a retail beer permittee is convicted of a violation of subsection 6 of said section, the City shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:
 - a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars (\$500). Failure to pay the civil penalty as ordered under Code of Iowa, Section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.
(Code of Iowa, Sec. 123.50(3a))
 - b. A second violation within two (2) years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).
(Code of Iowa, Sec. 123.50(3b))
 - c. A third violation within three (3) years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).
(Code of Iowa, Sec. 123.50(3c))
 - d. A fourth violation within three (3) years shall result in revocation of the license or permit.
(Code of Iowa, Sec. 123.50(3d))
 - e. For purposes of this subsection:
 - (1) The date of any violation shall be used in determining the period between violations.
 - (2) Suspension shall be limited to the specific license or permit for the premises found in violation.
 - (3) Notwithstanding section Code of Iowa, Section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.

2. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars (\$5,000) upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of Code of Iowa Section, 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.
- 1.10 DEPARTMENT NOTIFIED. When the City Council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.
- 1.11 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or City disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A City may appeal a decision of the hearing board as provided by statute.
(Code of Iowa, Sec. 123.32 (7 & 8))
- 1.12 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one year.
(Code of Iowa, Sec. 123.40)
- 1.13 HEARING ON SUSPENSION OR REVOCATION. The Council shall conduct a hearing on each suspension or revocation in the following manner:
 1. NOTICE. The permit holder, and the surety on his bond, shall be served with written notice containing a copy of the complaint against him, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
 2. HEARING. The Council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the Council may proceed to a determination of the complaint.

3. **RIGHTS OF PERMIT HOLDER.** The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross-examine adverse witnesses.
4. **EVIDENCE.** The Council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. **CRIMINAL CHARGES.** In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the Council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. **RECORD AND DETERMINATION.** The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

- 2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and state law.
(Code of Iowa, Sec. 123.22, 123.122 & 123.171)
- 2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his or her discretion allow the executor or administrator of a permittee or licensee to operate the business of the descendant for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.
(Code of Iowa, Sec. 123.38)
- 2.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:
1. CLASS "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.
(Code of Iowa, Sec. 123.124 & 123.131)
 2. CLASS "C". A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.
(Code of Iowa, Sec. 123.124 & 123.132)
- 2.04 WINE PERMITS - CLASSES. Wine permits shall be classed as follows:
1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.
(Code of Iowa, 123.173 & 123.178)
 2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.
(Code of Iowa, 123.173 & 123.178)

2.05 LIQUOR LICENSES - CLASSES. Liquor control licenses shall be classed as follows:

1. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

(Code of Iowa, Section 123.30(3)(a))

2. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises.

(Code of Iowa, Sec. 123.30(3)(b))

3. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

(Code of Iowa, Sec. 123.30(3)(c))

4. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other liquor control licenses, wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license. The division may issue a Class "E" liquor control license for

premises covered by a liquor control license or wine or beer permit for on premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other applicant for a class "E" license has been made within the previous twelve consecutive months.

(Code of Iowa, Section 123.30(3)(e))

- 2.06 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit or wine permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by the administrator.

(Code of Iowa, Sec. 123.31)

- 2.07 BOND FILED. The application shall be accompanied by the necessary fee and bond, if required, and be filed with the council for approval or disapproval.

(Code of Iowa, Sec. 123.32 & 123.127)

1. LIQUOR CONTROL LICENSE. Upon posting bond in the penal sum of \$5,000.00, and conditioned upon the payment of all taxes payable to the state under the provisions of the Iowa beer and liquor control act and compliance with all provisions of the act.

(Code of Iowa, Sec. 123.30(1))

2. BEER PERMIT AND WINE PERMIT. With class "B" and "C" beer permits, or class "A" and "B" wine permits, upon posting bond in the penal sum of \$500.00, and conditioned upon the faithful observance of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.128&123.129)

- 2.08 CONDITIONS FOR APPROVAL. No liquor control license or beer or wine permit shall be approved unless:

1. CHARACTER OF APPLICANT. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, Sec. 123.30(1))

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

(Code of Iowa, Sec. 123.30(1))

3. ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS. No interior access or residential or sleeping quarters is permitted or maintained unless permission is granted by the administrator in the form of a living quarters permit.
(Code of Iowa, Sec. 123.30(2))
 4. LOCATION OF PREMISES. The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.
(Code of Iowa, Sec 123.128(1b))
 5. SEATING CAPACITY. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
(Code of Iowa, Sec. 123.128(1b))
 6. CONFORM TO APPLICABLE LAWS. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
(Code of Iowa, Sec. 123.30(2) & 123.127(1))
- 2.09 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.
(Code of Iowa, Sec. 123.92)
- 2.10 SEPARATE LOCATIONS. Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.
(Code of Iowa, Sec. 123.140)
- 2.11 INVESTIGATION. Upon receipt of an original application for a liquor license or beer or wine permit by the clerk, it shall be forwarded to any peace officer who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the fire chief to inspect the premises to determine if they conform to the requirements of the city, and no license or permit shall be approved until or unless an approving report has been filed with the council by such officer.
(Code of Iowa, Sec. 123.30(1))

2.12 LICENSE AND PERMIT FEES. The following fees shall be submitted with the respective application:

1. CLASS "B" BEER. For a class "B" beer license the annual fee shall be:
 - a. For cities with population under 1,500:
 - 1) Without Sunday sales privileges \$100.00
 - 2) With Sunday sales privileges \$120.00
(Code of Iowa, Sec. 123.134(2&5))
2. CLASS "C" BEER. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:
 - a. Up to one thousand five hundred square feet \$75.00
 - b. Over one thousand five hundred square feet
and up to two thousand square feet \$100.00
 - c. Over two thousand and up to five thousand
square feet \$200.00
 - d. Over five thousand square feet \$300.00
(Code of Iowa, Sec. 123.134(3))
 - e. A Sunday sales permit will increase the fee by 20%.
(Code of Iowa, Sec. 123.134(5))
3. CLASS "A" WINE. For a class "A" wine permit the annual fee is \$750.00.
(Code of Iowa, Sec. 123.179(1))
4. CLASS "B" WINE. For a class "B" wine permit the annual fee is \$500.00.
(Code of Iowa, Sec. 123.179(2))
6. CLASS "A" LIQUOR. For a class "A" liquor control license the annual fee shall be:
 - a. Club, less than 250 members:

without Sunday sales privileges	\$400.00
with Sunday sales privileges	\$480.00
 - b. Club, which is a post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell

or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:

without Sunday sales privileges \$200.00

with Sunday sales privileges \$240.00
(Code of Iowa, Sec. 123.36(2))

6. CLASS "B" LIQUOR. For a class "B" liquor control license the annual fee shall be:

- a. Cities of 3,000 or less population \$800.00
- b. Cities of 3,000-10,000 population \$1,050.00
- c. Cities over 10,000 population \$1,300.00
- d. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(3))

7. CLASS "C" LIQUOR. For a class "C" liquor control license the annual fee shall be:

- a. Cities of 1,500 population or less \$600.00
- b. Cities with a population of 1,500-10,000 \$950.00
- c. Cities over 10,000 population \$1,300.00
- d. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(4,6))

8. CLASS "E" LIQUOR. For a class "E" liquor license, the annual fee is a sum of not less than \$750.00, and not more than \$7,500.00 as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises and the population of the area of the location of the licensed premises.

(Code of Iowa, Sec.123.36(8))

- 2.13 SURCHARGE. There is imposed a surcharge on the fee for each class "A", "B" or "C" liquor license equal to 30% of the scheduled license fee to be collected and deposited as provided in the Code of Iowa.

(Code of Iowa, Sec.123.36(9))

- 2.14 SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law.
(Code of Iowa, Sec. 123.34(1))
- 2.15 ACTION BY COUNCIL. 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))
- 2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.
(Code of Iowa, Sec. 123.34(1))
- 2.17 REFUNDS. Any such licensee or permittee, or his or her executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his or her creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:
1. BEFORE THREE MONTH PERIOD. If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
 2. SIX MONTH PERIOD. If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee.
 3. SIX - NINE MONTH PERIOD. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
 4. AFTER NINE MONTH PERIOD. No refund shall be made, however, for a liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
 5. SUNDAY SALES. No refund will be given on the Sunday Sales portion of a license or permit fee.
 6. COMPLAINT FILED. No refund shall be made to any licensee or permittee, upon the surrender of his/her license or permit, if there is at the time of said

surrender a complaint filed with the department or the city, charging him/her with a violation of this chapter or provisions of the Iowa beer and liquor control act.

7. HEARING ON COMPLAINT. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his or her license or permit, to receive a refund as herein provided. But if his or her license or permit is revoked or suspended upon such hearing he/she shall not be eligible for the refund of any portion of his or her license or permit fee.
8. SEASONAL LICENSES OR PERMITS. No refund shall be made for seasonal licenses or permits.
(Code of Iowa, Sec. 123.38)
- 2.18 TRANSFERS. The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of \$25.00.
(Code of Iowa, Sec. 123.38)
- 2.19 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer or wine permit nor his or her agents or employees shall do any of the following:
 1. INTOXICATED PERSONS. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.
(Code of Iowa, Sec. 123.49(1))
 2. HOURS OF OPERATION. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of eight a.m. on Sunday and two a.m. on the following Monday.
(Code of Iowa, Sec. 123.49(2b))
 3. CREDIT SALES. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.
(Code of Iowa, Sec. 123.49(2c))

4. EMPLOYMENT OF MINORS. Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
(Code of Iowa, Sec. 123.49(2f))
 5. SELLING TO MINORS. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.
(Code of Iowa, Sec. 123.49(2h))
 6. MIXING OF ALCOHOLIC BEVERAGE. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his or her place of business.
(Code of Iowa, Sec. 123.49(2i))
 7. SOLICITING AND DISORDERLY CONDUCT. Knowingly permit any gambling, except in accordance with Code of Iowa Chapter 99B, 99D, 99F, or 99G, or knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49(2a))
 8. BRAND OF Alcoholic SIGNS PROHIBITED. No signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This subsection does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.
(Code of Iowa, Sec. 123.51)
- 2.20 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the council for any of the following causes:
(Code of Iowa, Sec. 123.39)
1. MISREPRESENTATION. Misrepresentation of any material fact in the application for such license or permit.
(Code of Iowa, Sec. 123.39(1))
 2. VIOLATIONS. Violations of any of the provisions of the Iowa beer and liquor control act.
(Code of Iowa, Sec. 123.39(2))

3. CHANGE IN OWNERSHIP. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.
(Code of Iowa, Sec. 123.39(3))
4. ORIGINAL DISQUALIFICATIONS. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.
(Code of Iowa, Sec. 123.39(4))
5. SALE OR TRANSFER. Any sale, hypothecation or transfer of such license or permit.
(Code of Iowa, Sec. 123.39(5))
6. PAYMENT OF TAXES. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.
(Code of Iowa, Sec. 123.39(6))

2.22 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. SALE TO MINORS OR "SPIKING". If any licensee, beer or wine permittee, or employee of such licensee or permittee is convicted of a violation of section 2.19 of this Article or a retail beer permittee is convicted of a violation of section 2.19 of this Article, except section 2.19(8) "Bear Brand Signs Prohibited" the City shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:
 - a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under Code of Iowa, section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.
(Code of Iowa, Sec. 123.50(3a))
 - b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).
(Code of Iowa, Sec. 123.50(3b))
 - c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500). Code of Iowa, Sec. 123.50(3c))

- d. A fourth violation within three years shall result in revocation of the license or permit.

(Code of Iowa, Sec. 123.50(3d))

- e. For purposes of this subsection:

- (1) The date of any violation shall be used in determining the period between violations.
- (2) Suspension shall be limited to the specific license or permit for the premises found in violation.
- (3) Notwithstanding Code of Iowa, section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.

(Code of Iowa, Sec. 123.50(3e))

2.23 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

2.24 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A city may appeal a decision of the hearing board as provided by statute.

(Code of Iowa, Sec. 123.32 (7 & 8))

2.25 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one (1) year.

(Code of Iowa, Sec. 123.40)

2.26 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner:

1. NOTICE. The permit holder, and the surety on his or her bond, shall be served with written notice containing a copy of the complaint against him/her, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
2. HEARING. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his or her authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. RIGHTS OF PERMIT HOLDER. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.
4. EVIDENCE. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. CRIMINAL CHARGES. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. RECORD AND DETERMINATION. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

CHAPTER 2: CIGARETTE PERMITS

ARTICLE 3 - GENERAL PROVISIONS

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

1. "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(3))

2. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes irrespective of quantity or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(21))

3. "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the State of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(19))

4. "Tobacco Products" means the following: cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in pipe or otherwise, or both chewing and smoking, but does not mean cigarettes.

(Code of Iowa, Sec. 453A.1(26))

3.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

- 3.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3.04 shall be filed with the clerk. Renewal applications shall be filed at least 5 days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and special council meeting is called to act on the application the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13(5 & 9))

- 3.04 FEES. The fee for issuing or renewing a cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13(3))

1.	For permits issued or renewed during: (For cities under 15,000 population)	Fee:
	July, August, or September	\$75.00
	October, November, or December	\$56.25
	January, February, or March	\$37.50
	April, May, or June	\$18.75
2.	For permits issued or renewed during: (For cities over 15,000 population)	Fee:
	July, August, or September	\$100.00
	October, November, or December	\$75.00
	January, February, or March	\$50.00
	April, May or June	\$25.00

- 3.05 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

Upon proper application, approval by Council and payment of the required fee, a permit shall be issued to the applicant. Each permit issued shall clearly describe the place of business for which it is issued

(Code of Iowa, Sec. 453A.13(2))

- 3.06 DISPLAY. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.

(Code of Iowa, Sec. 453A.13(10))

- 3.07 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his or her place of business, the council, if it decides to issue a new permit to him/her, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

- 3.08 EXPIRATION. Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

- 3.09 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city except during April, May, or June, as follows:

(Code of Iowa, Sec. 453A.13(4))

Permits surrendered during:	Amount of refund:
(For cities under 15,000 population)	

July, August, or September	\$56.25
October, November, or December	\$37.50
January, February, or March	\$18.75

- 3.10 PERSONS UNDER THE LEGAL AGE. No person shall sell, give or otherwise supply tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine.

(Code of Iowa, Sec. 453A.2 & 453A.36(6))

- 3.11 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violated the provisions of 3.10 of this Chapter, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300). 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.

- b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred (\$1,500) dollars 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 paragraph.
- c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500) and the retailer's permit shall be suspended for a period of thirty days.
- d. For a fourth violation within a period of three (3) years the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500) and the retailer's permit shall be suspended for a period of sixty (60) days.
- e. 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, 453A.22(1))

- 3.12 RENEWAL AFTER REVOCATION. Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

(Code of Iowa, 453A.22(3))

- 3.13 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except as provided in Code of Iowa, Section 453A.3(6), a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

- 3.14 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 3: LICENSING

ARTICLE 4 - GENERAL PROVISIONS

- 4.01 PURPOSE. The purpose of this chapter is to assure that in the conduct of the activities, vocations, public amusements, and provisions licensed and regulated by this chapter, the public health, safety and welfare will be protected and maintained.
- 4.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "Housemover" means any person who undertakes to move a building or similar structure upon or across the public streets, alleys, walks or property.
 2. "Junk dealer" means any person engaged in collecting, storing, buying or selling junk. "Junk" means articles or materials that, because of age, deterioration or use, have lost their original utility or desirability but that by alteration, restoration or salvage may furnish an item or items of value.
 3. "Scavenger" means any person who transports upon the public streets, alleys, sidewalks or property any refuse except refuse directly from his or her own property.
- 4.03 LICENSE REQUIRED. It shall be unlawful for any person to engage in any activity, vocation, profession or public amusement regulated by this chapter without a valid license from the city.
- 4.04 APPLICATION. Application for any license under this chapter shall be made in writing on forms furnished by the city clerk.
- 4.05 FEE PAYMENT. All fees required by this chapter shall be paid to the city clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.
- 4.06 ISSUANCE. If the city clerk finds that all of the conditions prescribed by this article for the issuance of a license have been satisfied, the license shall be issued immediately to the applicant. The clerk must make a determination whether to issue the license within ten (10) days from the date a completed application is submitted. If the clerk refuses to act within this ten (10) day period, the applicant shall have a right to a hearing before the council at its next regular meeting on whether the license should be issued.

4.07 FEEES AND DURATION. The fee and duration of a license shall be:

- | | | |
|----|--------------------------------------|-----------------|
| 1. | FEE. The fees for licenses shall be: | |
| | House Movers license | \$10.00 per day |
| | Peddlers and Transient Merchants | \$10.00 per day |

4.08 POWER TO INSPECT AND INVESTIGATE. Upon receipt of an application for a license, the city clerk shall forward it immediately to the (police chief)(marshal), who shall conduct an investigation and submit a written report concerning the truth of the facts stated in the application and a recommendation concerning whether or not a license should be issued. The city clerk shall notify the county or local health officer and the fire chief immediately, and they shall inspect the premises to determine whether the applicant meets the standards of the applicable municipal ordinances and state statutes. These officials shall submit written reports of the results of their investigation within seven (7) days after the clerk received the application. No license shall be issued until these reports have been submitted to the city clerk.

4.09 REVOCATION OF LICENSE. After giving a licensee 10 days notice and after a hearing, the clerk may revoke any license issued under this ordinance for the following reasons:

1. FRAUDULENT STATEMENTS. The licensee has made fraudulent statements in his or her application for the license or in the conduct of his or her business.
2. VIOLATION OF CHAPTER. The licensee has violated this chapter or has otherwise conducted his or her business in an unlawful manner.
3. DANGER TO PUBLIC HEALTH AND SAFETY. The licensee has conducted is business in such manner as to endanger the public welfare, health, safety, order or morals.

The notice shall be in writing and shall be served personally or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

4.10 APPEAL. If the city clerk revokes or refuses to issue a license, he/she shall endorse his/her reasons upon the application. 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 city clerk by a majority vote of the council members present, if a quorum; and the city clerk shall carry out the council's decision.

4.11 EFFECT OF REVOCATION. Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of revocation.

- 4.12 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee he has paid if he/she surrenders his or her license before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least one dollar of the original fee shall be retained by the city to cover administrative costs.
- 4.13 TRANSFER PROHIBITED. In no case shall a license issued under this chapter be transferred to another person or be used for a purpose other than that for which it was issued.
- 4.14 DISPLAY. Every person who is issued a license under the provisions of this chapter shall display the license in a conspicuous place on the premises on which the business is being conducted.
- 4.15 EXEMPTIONS. This chapter shall not be construed to require a license of each employee or agent or one engaged in a licensed occupation. Only the owner, manager or agent in charge of such an occupation need possess a license.

CHAPTER 3: LICENSING

ARTICLE 5 - SPECIAL REQUIREMENTS

- 5.01 COMPLIANCE. Every person who is granted a license under the terms of this chapter shall comply with the following regulations that apply in his or her case.
- 5.02 PUBLIC DANCE HALLS. No place in which beer is sold shall hold a license for a public dance hall unless such place has complied with all the requirements of the city ordinances concerning dancing in connection with the operation of an establishment which sells beer for consumption on the premises.
- 5.03 BILLIARD HALL. No minor shall be allowed to be in any billiard hall in which beer is sold.
- 5.04 HOUSEMOVERS. The following shall apply to the license for housemovers:
1. APPLICATION. An application for housemover's license shall describe the present location and the future site of the building or similar structure to be moved.
 2. BOND. The applicant shall post with the city clerk a penal bond in the sum of \$5,000 with good and sufficient sureties approved by the clerk. The bond shall guarantee the licensee's payment for any damage done to the city or to the public property in the course of moving the building or similar structure.
 3. INSURANCE. The applicant shall show evidence that he/she is insured for not less than \$100,000 for personal injuries and \$25,000 for property damage. A penal bond for the same sum of money may be posted with the clerk in lieu of the insurance policy. The sureties on the bond shall be approved by the city clerk and the bond shall guarantee the licensee's payment for personal injuries or property damage caused by him/her or his/her agents or employees in the course of the moving operations.
 4. ROUTE. The applicant shall file with the clerk a routing plan approved by the police chief. The police chief shall approve the shortest route compatible with the greatest public convenience and safety.
 5. FLAGMEN AND WARNING SIGNS. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the licensee shall maintain adequate warning signs or flares at

the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

5.05 BILL POSTERS. The following shall apply to the license for bill posters:

1. APPLICATION. An application for a bill poster's license shall contain a description of the boundaries of the areas of the city in which the distribution of bills is to be made. The license shall limit distribution of bills in the city to these areas.
2. PROHIBITED LOCATIONS. Bill posters shall not attach bills to any tree, pole, sidewalk, building or other structure.
3. MANNER OF DISTRIBUTION. Bills shall not be distributed in such a manner that they may be blown about or scattered.
4. SIZE OF BILLS. Bills larger than nine by twelve inches in size shall not be handed to persons on the sidewalks or streets or public property or attached to automobiles parked on any streets, alleys or public property.

5.06 JUNK DEALERS. The following shall apply to the license for junk dealers:

1. RECORD BOOK. Every junk dealer shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, the amount paid, and the time and date of the transaction.
2. SEGREGATE DAY'S COLLECTION. Every junk dealer shall segregate each day's collection for a period of forty-eight (48) hours. During this period no item shall be disposed of or altered in any manner.
3. RECEIVE JUNK FROM MINOR. A junk dealer shall not purchase or receive junk from a minor unless he/she first receives the written consent of the minor's parent or guardian. Such consent shall be attached to the record book as a part of the permanent record.
4. INSPECTION. Health officers and peace officers shall be permitted at all times to inspect the junk dealer's premises for the existence of materials or conditions dangerous to the public health.
5. ENCLOSED WITH FENCE. All junk yards shall be enclosed within a solid fence at least eight (8) feet in height, which hides the contents of the yard from public view. Materials within the yard shall not be stacked higher than the surrounding fence. Any gates in said fence shall be of solid material and equal height.

5.07 SCAVENGERS. The following shall apply to the license for scavengers:

1. APPLICATION. An application for a scavenger's license shall contain a detailed list describing each of the places from which the scavenger collects or intends to collect refuse.
2. COLLECTION RECORD. The licensee shall keep this list up-to-date by reporting immediately to the city clerk any changes of places of collection. Refuse shall be collected only from the places reported as places of collection.
3. REFUSE ON STREET. Refuse shall not be carried upon any street, alley, sidewalk or property of this city in containers that permit leaking or spilling of the refuse.
4. INVESTIGATION BY HEALTH OFFICER. The health officer shall be permitted at all times to investigate the scavenger's activities for the existence of materials or conditions dangerous to the public health.

5.08 PAWNBROKERS. The following shall apply to the license for pawnbrokers:

1. RECORD BOOK. Every pawnbroker shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, a statement of the nature of the transaction including the sum for which the item is security, the time and date of the transaction, and the disposition made of the item including the time and date of disposition.
2. RECEIVE FROM MINOR. A pawnbroker shall not purchase or receive any item from a minor unless he/she first receives the written consent of a parent or guardian of the minor. Such consent shall be attached to the record book as a part of the permanent record.
3. NOTIFY POLICE. Any pawnbroker shall notify the local police immediately upon receipt of an item that he/she believes or has reason to believe is stolen property. Such an item shall not be disposed of or altered without written permission from the local police.

5.09 SALES BY AUCTIONEERS. The following shall apply to the license for auctioneers:

1. APPLICATION. An application for a license for an auctioneer's sale shall contain a general description of the goods or property to be sold, including their approximate values, and the time and place at which the sale will be held.
2. LOCATION FOR SALE. Any auctioneer shall not use any street, alley, sidewalk or other public place as a location for conducting a sale.

3. EXCEPTIONS. The provisions of this chapter concerning sales by auctioneers shall not apply to any sales made by a person required by law to sell real or personal property.

CHAPTER 3: LICENSING

ARTICLE 6 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

1. "Peddler" shall mean any person carrying goods or merchandise from house-to-house or upon the public street.
2. "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" shall mean any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer shall not exempt any person, firm or corporation from being considered a transient merchant.

6.02 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as herein provided shall be in violation of this ordinance.

6.03 EXEMPTIONS. The following groups or persons shall be exempt from the provisions:

1. Newspaper Carriers.
2. Persons offering for sale produce or products of their own raising at a stationary location or who use or occupy a permanent location to offer said products for sale on a periodic basis.
3. Students representing the Newell/Fonda Community School District conducting projects sponsored by organizations recognized by the school.
4. Members of the local Boy Scouts, Girl Scouts, Campfire Girls, Future Farmers of America, and similar organizations.
5. Milk delivery persons who only incidentally solicit additional business or make special sales.
6. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

- 6.04 RELIGIOUS AND CHARITABLE ORGANIZATIONS EXEMPT. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Section 6.05 - 6.13 of this ordinance. All such organizations shall be required to submit in writing to the city clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor for his/her efforts and the amount thereof. If the city clerk shall find that the organization is a bona fide charity or religious organization he/she shall issue, free of charge, a license containing the above information to the applicant.
- 6.05 APPLICATION. An application in writing shall be filed with the city clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, right thumb print, and, unless a solicitor, be accompanied by a certificate that the applicant is in good health and free from contagious diseases, signed by a local physician. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. A fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.
- 6.06 BOND REQUIRED. Before a license under this chapter shall be issued, each applicant shall post a bond of one hundred dollars \$100.00 with the clerk. Such bond shall be conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this chapter, and shall not be retired until after a lapse of one (1) year from the expiration of each license.
- 6.07 FEES. Every licensee, whether peddler, solicitor or transient merchant, shall pay the amount of ten dollars (\$10.00) per day before a license shall be issued.
- 6.08 DISPLAY. Each solicitor or peddler shall at all times while doing business in this city keep in his/her possession the license provided for in this article, and shall, upon the request of prospective customers, exhibit the license as evidence that he/she has complied with all requirements of this chapter. Each transient merchant shall display publicly his/her license in his/her place of business.
- 6.09 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.
- 6.10 REBATES. On surrender of any license before the expiration of the full period for which it was issued, the licensee may apply for a rebate of the fee from the clerk. Determination of the amount of the rebate shall be made by deducting from the fee paid the amount payable when computed on a monthly, weekly and daily basis from the first day the license was issued. The balance, if any, shall be refunded.

- 6.11 REVOCATION. The city council, after notice and hearing, may revoke any license issued under this chapter where the licensee in the application for the license or in the course of conducting his/her business has made fraudulent or incorrect statements or has violated this chapter or has otherwise conducted his/her business in an unlawful manner as to endanger the public welfare, safety, order or morals.
- 6.12 HOURS IN EFFECT. All peddlers, transient merchants and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight (8:00) a.m. and eight (8:00) p.m.
- 6.13 EXPIRATION. All licenses granted under this chapter shall expire at 6:00 p.m. of the last day for which the license is issued.
- 6.14 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the state law, section 82.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to which he/she sells a product or service and, comply with the other requirements of the law.

TITLE VI - BUILDING REGULATIONS

CHAPTER 1: BUILDING CODE

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 ENFORCEMENT OFFICER. A designated Enforcement Officer as designated and approved by the council is responsible for the enforcement of this chapter. The Council may designate and approve others to assist in the enforcement of this Chapter.
- 1.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

- 1.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:
1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
 2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
 4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
 5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
7. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
8. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
9. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
10. Lack of, or improper operation of required ventilating equipment.
11. Lack of required electrical lighting in halls, stairways, etc., in public buildings.
12. Dampness of habitable rooms.
13. Infestation of insects, rats, vermin, rodents or birds.
14. Lack of connection to required sewage disposal system.
15. Defective or deteriorated flooring or floor supports.
16. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
17. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
18. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
19. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
20. Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

21. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
22. Hazardous Wiring: All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
23. Hazardous Plumbing: All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.
24. Hazardous Mechanical Equipment: All mechanical equipment including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
25. Faulty Weather Protection:
 1. Deteriorated, crumbling or loose plaster.
 2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including, but not limited to broken windows or doors, or holes in the exterior walls and roof.
 3. Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved covering.
 4. Broken, rotted, split or buckled exterior walls or roof coverings, or missing siding.
26. Hazardous or Insanitary Premises: Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat and mice harborages, stagnant water, combustible materials and similar materials or conditions constitute undue fire, health or safety hazards.
27. Inadequate Maintenance: Any building or portion thereof which is determined to be an unsafe building in accordance with the provisions of this code.
28. Improper Occupancy: All buildings or portions thereof occupied for living, sleeping, cooking or eating purposes which are not designed or intended to be used for such occupancies.
29. Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartments.
30. Lack of adequate heating facilities in multiple dwellings or rooming homes.
31. Lack of, or improper operation of required ventilating equipment.

32. Whenever any building or structure or portion thereof has broken or missing window(s) or open, missing or broken doors, or hole(s) in an exterior wall(s) or roof becomes an attractive nuisance or hazard to the public because of infestation by insects, birds, rodents, or other vermin or has the potential to harbor insects, birds, rodents, or other vermin.

1.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer, or other Council designated and approved persons to assist in the enforcement of this Chapter.

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

1. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipts requested, to each such persons at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved the proceedings and as shown by the records of the County Auditor. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
2. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City.
3. Hearing. Such notice shall also advise the owner that he/she or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

1.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

1.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF NEWELL, IOWA." It is a misdemeanor to occupy this building, or to remove or deface this notice. Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

1.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

1.08 COSTS. Costs incurred under Section 1.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located and shall be certified to the County Treasurer for collection in the manner provided for other taxes. . In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

1.09 EMERGENCY ABATEMENT OF DANGEROUS BUILDING. In an emergency a city may perform any action which may be required under this Chapter without prior notice, and assess the costs as provided in this Chapter, after notice to the property owner and hearing.

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

CHAPTER 2: FIRE LIMITS

ARTICLE 2 - GENERAL PROVISIONS

- 2.01 FIRE LIMITS ESTABLISHED. The fire limits (Fire Zone No. 1) are established to include the following property:

All of Block two (2) except the south half of lot two (S 1/2 of 2), lots three, four, five (3,4,5).

All of Block three (3).

All of east half of Block six (6) except lots ten, eleven, twelve (10, 11, 12).

All of lots thirteen, fourteen, fifteen, sixteen, seventeen, eighteen (13, 14, 15, 16, 17, 18) in Block seven (7) in the City of Newell, Iowa.

- 2.02 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the fire limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the building inspector or mayor etc., who if the proposal is in accordance with the provisions of the building code, shall issue a permit for the proposed work.

- 2.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the fire limits, unless constructed in strict compliance with the provisions of the city building code for Fire Zone No. 1.

- 2.04 SPECIAL PERMIT. The council may, by four-fifths vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard, according to the rules of the Iowa Insurance Service Bureau.

- 2.05 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.

- 2.06 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, to the extent of fifty percent (50%) of its value, shall not be repaired or rebuilt but shall be torn down or removed. When the damages are less than fifty percent (50%) of its value, the building shall not be repaired so as to be higher in value than it was before the damages were sustained, except upon approval by four-fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.

- 2.07 REMOVAL OF BUILDINGS. Any person who erects or moves any building in the fire limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the time of the service of such notice, the mayor shall cause the same to be removed or taken down. The mayor shall report an itemized bill of the expense to the clerk, and the same shall be charged to the person owning such building. The clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the clerk, to the county auditor, as a special tax against the property and collected the same as other taxes.
- 2.08 BOARD OF APPRAISEMENT. In case of a question as to the amount or extent of damage by fire or otherwise to any building, the damage shall be determined by a board of appraisement of three disinterested parties, owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor, and the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decision shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the fire limits about which there is a question shall be repaired or rebuilt until such finding has been filed with the clerk.

CHAPTER 3: SIGNS

RESERVED FOR FUTURE USE

CHAPTER 4: TREES

ARTICLE 4 - GENERAL PROVISIONS

4.01 DEFINITIONS. For use in this chapter, the following term is defined:

1. "Parking" or 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.

4.02 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. **SPACING.** All trees hereafter planted in any street or parking midway between the outer line of the sidewalk and 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. **PLANTING.** The following regulations shall be followed in the planting of trees within the city.
 - a. **Size.** All trees planted on the streets shall be of sufficient size to warrant satisfactory results and stand the abuse common to street trees.
 - b. **Grade.** Unless otherwise allowed for substantial reasons, all standard sized trees shall have comparatively straight trunks, well-developed leaders, and tip and root characteristics of the species or variety showing evidence of proper nursery pruning. All trees must be free of insect, disease, mechanical injuries and other objectionable features at the time of planting. To compensate for any serious loss of roots, the top of the tree should be reduced by thinning or cutting back as determined by the growth characteristics of the tree species. The leader shall not be cut off in such trimming.
 - c. **Planting.** Trees shall not be planted on the parking if it is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
 - d. **Method of support.** Trees may be guyed or supported in an upright position according to accepted arboricultural practices. The guys or supports shall be fastened in such a way that they will not girdle or cause serious injury to the trees or endanger public safety.

3. TRIMMING OR PRUNING. Trees shall be trimmed or pruned according to the following:
- a. All cuts are to be made sufficiently close to the parent stem so that healing can readily start under normal conditions.
 - b. All dead and diseased wood shall be removed.
 - c. All limbs one inch in diameter or more must be precut to prevent splitting. All branches in danger of injuring the tree in falling shall be lowered by ropes.
 - d. A crossed or rubbing branch shall be removed where practicable, but removal shall not leave large holes in the general outline of the tree. Crossed or rubbing branches may be cabled apart.
 - e. All cuts, old or new, one inch in diameter or more, shall be painted with an approved tree wound dressing. On old wounds, care shall be taken to paint exposed wood only.
 - f. Where there is a known danger of transmitting disease by tools, said tools shall be disinfected with alcohol before use on another tree.
 - g. Improperly healed scars, where callous growth is not established, are to be traced and painted, unless the city designates other treatment.
 - h. No topping or dehorning of trees shall be permitted except by special written permission of the city. Trees becoming stag-headed may have the dead portions removed back to sound green wood, with a proper forty-five (45) degree cut only.
 - i. Elm wood trimmed, pruned or removed shall not be used for any purpose, but shall be disposed of immediately by burning or burying.

- 4.03 REMOVAL OF TREES. The city shall have removed, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public or which may otherwise be declared a nuisance.

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

- 4.04 MAINTENANCE OF TREES, SHRUBS, AND FLOWERS ON THE PARKING IN RESIDENTIAL AREAS. All responsibility for the care, maintenance, removal and replacement of trees, including stumps, shrubs, and flowers on the parking in a residential zone shall be at the abutting property owner's expense. The abutting property owners shall prune the trees and bushes on the parking and on their own property so that all branches will be at least fifteen (15') feet above the surface of the street and eight (8') feet above the sidewalk. The abutting property owner shall remove broken branches from trees and shrubs and remove fallen trees from the parking and from their own private property.
- 4.05 ASSESSMENT. If the abutting property owner fails to trim, remove, care for, and maintain the trees, shrubs and flowers, including replacement of trees and shrubs and the removal of stumps as required in this chapter, the city may serve notice on the abutting property owner requiring the abutting property owner to do so within five (5) days. If the abutting property owner fails to trim the trees within that time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(2d&e))
- 4.06 TREE BRANCHES NEAR UTILITY LINES. Trees shall be trimmed so that no branch hangs over, between, or parallel to within a distance of ten (10) feet, any utility, wire, cable, line or other suspended utility, or appurtenance. For the purpose of this chapter, utility shall include, but not be limited to, power, telephone, telegraph, cable television, or other public service or facility requiring or utilizing suspended appurtenances for the delivery of the service.

CHAPTER 4: TREES

ARTICLE 5 – DISEASE & DEAD TREE CONTROL

- 5.01 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within thirty (30) days. Notice shall either be given by personal service or by certified mail with return receipt barring the signature of the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax. Code of Iowa, Chapter 364.12(3)(h) allows the City in an emergency to perform any action which may be required to abate the emergency without prior notice, and assess the costs as provided in Chapter 364.12, after notice to the property owner and hearing.
- 5.02 DUTY TO REMOVE. No person, firm or corporation shall permit any diseased tree, dead wood to remain on the premises owned, controlled or occupied by the person within the City.
(Code of Iowa, Sec, 364.12(3b))
- 5.03 INSPECTION. The City shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Article 5.01 of this Article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to constitute a public nuisance, a hazard to person or property, or harbors insects, other pests, or disease.
- 5.04 REMOVAL FROM CITY PROPERTY. If the City, upon inspection or examination, in person or by some qualified person acting for the City, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property within the City, and that the danger of other trees, shrubs, bushes, or woody vegetation within the City is imminent, the City shall immediately cause the tree, shrub, bush or woody vegetation to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease, or insect pests, or vectors known to carry such disease, insects, and/or fungus.

- 5.05 REMOVAL FROM PRIVATE PROPERTY. If the City upon inspection or examination, in person or by some qualified person acting for the City, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises, and that he danger to other trees within the City is imminent, he/she shall immediately notify by certified mail or personal delivery to the occupant or person in charge of such property, to correct such condition within thirty (30) days of said notification. If such owner, occupant or person in charge of said property fails to comply within thirty (30) days of receipt thereof, the Council may cause the nuisance to be removed and the cost assessed against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(3b&h))
- 5.06 REASONABLE CERTAINTY. If the City is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected, diseased, or harboring insects or pests, a City representative is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

CHAPTER 5: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 6 - ABANDONED VEHICLES

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

1. "Abandoned Vehicle" shall mean any of the following:
(Code of Iowa, Sec. 321.89(1a))
 - a. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates, or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - b. A motor vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - c. A 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 thirty (30) days. However, a police authority may declare the vehicle abandoned within the ten-day period 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 any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
(Code of Iowa, Sec. 321.89 (1b))
3. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.
(Code of Iowa, Sec. 321.89(1c))

- 6.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody an abandoned on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89(2))

- 6.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to the disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaim period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (10) day reclaiming period.

(Code of Iowa, Sec. 321.89(3a))

- 6.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 6.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mail notice in section 6.03.
(Code of Iowa, Sec. 321.89(3b))
- 6.05 EXTENSION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtaining an additional five (5) days within which the motor vehicle or personal property may be reclaimed
(Code of Iowa, Sec. 321.89(3c))
- 6.06 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay five dollars (\$5.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the city, or upon payment of the towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages shall be established by resolution of the council.
(Code of Iowa, Sec. 321.89(3a))
- 6.07 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 or a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders a vehicle totally inoperable. The police authority shall give the applicant a certificate of authority in lieu of the certificate of title.
(Code of Iowa, Sec. 321.90(2e))
- 6.08 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])
- 6.09 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of the auction, cost of towing, preserving, storing and notification required, in accordance with state law. Any balance shall be held for the owner of the motor vehicle or entitled lien holder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs, the police authority shall apply for reimbursement from the Department of Transportation.
(Code of Iowa, Sec. 321.89(4))

- 6.10 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such a motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90(3a))

CHAPTER 5: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 7 - JUNKED VEHICLES AND MACHINERY

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

1. **ENCLOSED STRUCTURE.** Means any structure or portion thereof built for the enclosure of property, containing a roof and having exterior walls of the structure or portion thereof constructed in such a manner as to obscure from any street or adjacent property any contents thereof and being of a permanent nature.
2. **JUNK.** "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, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; storing or permitting the open storage of used or unused or discarded building materials such as windows, doors, siding, shingles or other building materials for a period of thirty (30) or more days; noncurrent registered boat, pontoon, canoe, jet ski, or similar watercraft or with no current registration stickers attached to the same. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.
3. **JUNK VEHICLE.** "Junk Vehicle" means any vehicle, trailer, or semitrailer or piece of machinery stored within the corporate limits of Newell, Iowa, unlicensed for the current year as required by any law, or legally placed in storage with the County Treasurer, or which because of any one of the following characteristics, constitutes a threat to the public health, welfare and/or safety:
 - a. **INOPERABLE.** Any vehicle not in safe and current operating condition or road ready for use on any roadways. Any motor vehicle which lacks an engine or transmission, or one or more wheels or other structural parts, or having one or more flat tires, rendering said motor vehicle totally inoperable for safe use on public roadways, or which cannot be moved under its own power (incapable of both forward and reverse movement in the manner in which it was designed), or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - b. **UNINSURED.** Any vehicle not insured and not having proof of financial liability coverage as required under Section 321.20(B) (or any subsequently adopted replacement provision) of the Code of Iowa.
 - c. **BROKEN GLASS.** Any vehicle with a broken-out windshield, window, headlight, or taillight.

- d. **BROKEN OR LOOSE PART.** Any vehicle or trailer with a broken or loose fender, door, bumper, hood, running board, steering wheel, trunk, top, tail pipe, or with one or more missing or flat tires.
 - e. **HABITAT FOR ANIMALS OR INSECTS.** Any vehicle or trailer or piece of machinery which has become the habitat for rats, mice, or any other rodents, vermin or insects.
 - f. **FLAMMABLE FUEL.** Any vehicle, trailer, or machinery which contains gasoline or any other flammable fuel.
 - g. **DEFECTIVE OR OBSOLETE CONDITION.** Any other vehicle, trailer, or piece of machinery which, because of its defective or obsolete condition in any other way, constitutes a threat to the public health and safety.
 - h. **PARKED VEHICLES.** Any vehicle, trailer, and or machinery parked on any private or public property for an extended period of time, which allows weeds or grass to partially cover it.
- 4. **SEMI-TRAILER.** Means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
 - 5. **STORE.** “Store” means an inoperable vehicle, trailer, semitrailer, or junk left upon private property for thirty (30) days or more.
 - 6. **TRAILER.** Means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
 - 7. **VEHICLE.** means every device in, upon or 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, atv, utv, boat, utility trailer, semitrailer, camper, camper trailer, motorhome, or any combination thereof.
 - 8. **“Unlicensed vehicle”** means any vehicle which is required to be licensed if it is operated on a public street or highway, but which is not displaying a valid and current license plates and registration sticker to the rear plate on the vehicle as required by law for use on public roads.

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

7.02 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 for more than 30 days.

7.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property for more than 30 days, unless excepted by Section 7.04, 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))

7.04 EXCEPTIONS. The provisions of this chapter shall not apply to a junk motor vehicle or junk machinery stored within:

1. A garage or other enclosed structure; or
2. An auto salvage yard or junk yard lawfully operated within the city.
3. Held for storage or sale upon property, not in a commercially zoned district, owned or controlled by a licensed motor vehicle dealer, body shop, repair shop, or vehicle towing company regularly engaged in commercial sales, repair, transportation or storage of vehicles. Grass, weeds, vegetation shall not be allowed to partially cover or grow up around a vehicle, machinery, or junk items. The property shall not be in a condition or create a habitat which may attract or harbor rats, mice, snakes, or any other vermin, rodents, animals or insects. Storage of vehicles and the premises itself shall be maintained in an orderly and neat condition and safe to the public.
4. Held for storage, sale or disposition by a governmental agency.

705 LIABILITY FOR VIOLATION. The registered owner of any vehicle, trailer, semi-trailer or junk shall be prima facie liable for any violations of this chapter. In the absence of any known or ascertainable owner, the occupant, lessee or owner of the property upon which said vehicle, trailer, semi-trailer or junk is stored shall be prima facie liable for the violation.

7.06 DETERMINATION BOARD. A four-person board appointed by the mayor, with approval of the council shall determine in each instance whether a public nuisance exists under this chapter. One member of said board shall be a council person. An alternate member may also be named by the Mayor for instances of conflict of interest or unavailability. The noncouncil members shall determine whether a public nuisance exists under this chapter. The board shall recommend to the council person the process of abatement deemed most appropriate in the instance of a nuisance:

- a. Abatement by Administrative Proceedings.
- b. Abatement by Municipal Infraction Proceedings.

These processes shall not be deemed exclusive of each other.

The Council person shall take the Determination Board's decision to the Council for a final decision as to the existence of a nuisance and the process to follow.

7 07 ABATEMENT BY ADMINISTRATIVE PROCEEDINGS.

- a. Upon a finding that a public nuisance exists under this chapter, pursuant to 7.06 above, the mayor, or mayor's designee or authorized municipal officer or Buena Vista County Sheriff's Department may order the same to cease immediately through a notice to abate, and to direct such actions to be taken as will permanently abate the nuisance.
- b. Content of Notice: In the event the decision is made to abate a nuisance administratively, the notice to abate shall include the following information:
 - 1. Description of what constitutes a nuisance, citing the appropriate code section.
 - 2. Description of the action necessary to abate the nuisance.
 - 3. The order to abate within a specified time period.
 - 4. The notice shall advise that, upon failure to comply with the order to abate, the city shall undertake such abatement and that the cost of abatement may be assessed against the property for collection in the same manner as property taxes.
 - 5. The notice shall also advise as to the opportunity for a hearing before the City Council and that failure to file a written request for such a hearing within the time specified in the notice shall constitute a waiver of the right to a hearing and that said notice shall thereafter become a final determination and order to abate.
 - 6. Service of the notice to abate shall be by personal service or certified mail to the responsible person or the person in control of the property upon which the nuisance is located.
- c. The person served with a notice may appeal such order to the city council by filing a written request to appeal with the city clerk. The council shall, at its next regular meeting, consider the appeal and shall at that meeting or at the next meeting affirm, reverse, or modify the decision that is set forth in the notice.
- d. In the event that abatement is ordered and the owner of the property or premises fails to abate the nuisance in the manner and time frame specified by the notice to abate:

1. The city may take such action as will abate the nuisance, and either sue the owner to recover the costs incurred, or may assess the costs to the property for collection in the manner of property taxes; or
2. The city may apply to any court of competent jurisdiction for an order requiring the owner to comply with the abatement order;
3. The city may file a municipal infraction against the owner for each day the nuisance exists.
4. The city may follow the abatement procedures set forth in Article 10, Chapter 2 of Title III herein.

These rights shall not be deemed exclusive of each other.

7.08 ABATEMENT BY MUNICIPAL INFRACTION PROCEEDINGS.

- a. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.
 - h. The legal description of the affected property, if applicable.

(Code of Iowa, Sec. 364.22)

- b. Issuance of Civil Citation: In the event that the nuisance is not abated as ordered and within the time specified in the notice to abate, the enforcement officer may issue a civil citation to the property owner or responsible party, charging that person with a municipal infraction. The enforcement officer may, but shall not be required to give notice to abate prior to issuance of a civil citation for a repeat offense involving the same property and occurring within one year of a prior violation.

7.09 ABATEMENT REMEDIES; PENALTIES.

- a. Abatement may include, but shall not be limited to, repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, repairing a building or structure, boarding unoccupied buildings, barricading or fencing, removing dangerous portions of buildings or structures and demolition of dangerous structures or abandoned buildings.
- b. The cost of abatement may be assessed against the property for collection in the same manner as property taxes. Abatement costs shall include the cost of removing or eliminating the nuisance, the cost of investigation, such as title searches, inspection and testing; the cost of notification; tiling costs; and other related administrative costs. Junk vehicles which have been impounded may be sold in accordance with state law. If a junk vehicle is not sold or if the proceeds of such sale or redemption are not sufficient for payment of the cost of abatement, storage and sale of said junk vehicle, such cost or the balance of such cost may be assessed against the property for collection in the same manner as a property tax.
- c. The cost may also be collected as set forth in Article 10, Chapter 2, Title III at the council's option.
- d. In a municipal infraction proceeding for the abatement of a nuisance, the court may order anyone or more of the following:
 1. Place a judgment against the person and/or property of the defendant for the cost of abatement.
 2. Levy a civil penalty (fine) against the defendant of up to one hundred dollars (\$100.00) for the first offense and up to two hundred dollars (\$200.00) for repeat offenses.
 3. Order abatement of the nuisance in any manner as provided in this chapter.
 4. Assess costs of abatement against the property for collection in the same manner as property taxes.

(Editor's Note: Article 7 was repealed and replaced by Ordinance 220 on July 2, 2008)

CHAPTER 6: FIRE PREVENTION CODE AND FIRE FIGHTING

ARTICLE 8 - GENERAL PROVISIONS

- 8.01 PURPOSE. This chapter is adopted to provide the city with the rules, administration, and enforcement powers to protect persons and property against the dangers of fire or explosion by measures to enhance prevention of such occurrences and to maintain buildings in a safe condition by the proper and safe storage of materials, the preservation of adequate exits clear of obstruction, use of safe practices in furnishing buildings for the public safety and welfare of the citizens of the city.
- 8.02 ENFORCEMENT; FIRE MARSHAL. The chief of the fire department shall be the city fire marshal, who has the power and duty to conduct inspections and issue orders to enforce fire safety and the regulations adopted by this chapter, either by him or herself or through a designated deputy, named by the chief from among the membership of the volunteer fire department, who is trained in firemanship and knowledgeable of fire prevention measures. The fire chief has concurrent jurisdiction to enforce the state fire marshal's rules adopted in this chapter to enhance the public effort to prevent fires and explosions.
- 8.03 EXIT WAYS MAINTAINED. The provisions of state law on exits shall be reinforced by the city fire marshal, and it shall be the duty of the owner, agent or occupier of property, severally and collectively, to maintain the exits required by state law or by any city building code free from obstruction caused by storage of materials, placement of furniture, or by improper barring of exit doors. Whenever a condition which obstructs the required exits or unsafely prevents emergency use of exit doors, hallways, or passages to such doors, whether in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, retail stores, warehouses, hotels, motels, or multi-family dwellings with three or more dwelling units, the fire marshal shall order the condition remedied. The owner or occupant of the premises, upon receiving such an order in writing, shall make such corrections as have been so ordered by the authorized official within a reasonable time as set in the written order and the degree of imminent danger. The regulations of the state fire marshal, IAC 661, Chapter 5, which apply to exits and fire escapes, are adopted by reference.
- 8.04 FIRE EXTINGUISHERS. The provisions of state law requiring fire extinguishers in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, hotels, motels, or multi-family dwellings with three or more dwelling units are adopted by reference and the city fire marshal shall enforce their requirements as they appear in IAC 661, Chapter 5. Portable fire extinguishers shall also be provided in retail stores, warehouses, and industrial establishments, with not less than one (1) such extinguisher on each floor of a building and located so that no person will have to travel more than seventy-five (75) feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in a building and may be required by the city fire marshal in areas that constitute a special hazard. The type and

size of portable fire extinguishers shall be determined by the city fire marshal for the named commercial and industrial buildings in accordance with best practice as advised by the state fire marshal and the insurance industry.

8.05 STORAGE OF HAZARDOUS SUBSTANCES.

1. **EXPLOSIVES.** No person shall store explosives, as defined by state law and rules promulgated thereunder, classified as Class A, Class B, or Class C explosives by the Federal Department of Transportation, within the fire limits without a permit from the city fire marshal except for quantities of twenty-five (25) pounds or less of smokeless powder or five (5) pounds or less of black powder for use in small arms, but a permit shall not be required for retail stocks of small arms ammunition for small bore rifles or shotguns customarily used in wild game hunting, or for target practice or skeet shooting. The city fire marshal shall have the power to limit the quantities of other explosives for which a permit is requested, but shall not grant permits for liquid nitroglycerin, dynamite with over 60% of liquid explosive ingredient, unstable types of dynamite, nitrocellulose, fulminate of mercury, explosive compositions that ignite spontaneously or markedly decompose to become more hazardous when subjected to 48 consecutive hours at a temperature of 167 degrees F.
2. **FLAMMABLE AND COMBUSTIBLE LIQUIDS.** The regulations for the storage and handling of flammable and combustible liquids as set forth in IAC 661, sections 5.300 et seq. are adopted by reference and shall be enforced by the city fire marshal. No flammable or combustible liquid shall be dispensed from underground tanks in residential areas except in public garages or motor fuel (service) stations which exist as legally nonconforming uses under the zoning chapter.
3. **LIQUEFIED PETROLEUM GASES.** The regulations for the storage and handling of liquefied petroleum gases as set forth in IAC 661, section 5.250 and 5.251 are adopted by reference and shall be enforced by the city fire marshal, and no installation exceeding 900 pound capacity shall be made without a city permit, conditioned on compliance with said state rules, issued by the city fire marshal.

8.06 OPEN BURNING. The following shall apply to open burning:

1. **DEFINITIONS.**
 - a. **Back yard Burning.** The burning of rubbish originating on the premises by individuals domiciled on the premises.
 - b. **Open Burning.** Any burning of combustible materials where in the products of combustion are emitted into the open air without passing through a chimney or stack.

- c. Refuse. Garbage, rubbish, and all other putrescible and nonputrescible wastes, except sewage and water-carried trade wastes.
- d. Rubbish. All waste materials of nonputrescible nature.
- e. Trade Waste. All solid or liquid material or rubbish resulting from building operations, construction, or the conduct of any business, industry or trade, including but not limited to, chemicals, cinders, grease, paint, plastic products, and other forms of liquid and solid waste materials.

2. REGULATIONS.

- a. No person shall allow, cause, or permit open burning of refuse, including trade wastes, nor shall he/she conduct a salvage operation by open burning, except where a variance has been granted by the air pollution control authority of the State of Iowa.
- b. No person shall burn garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter, as provided hereafter. Equipment or facilities for enclosed burning of refuse shall have a stack adequate to maintain a draft sufficient for efficient combustion, and the stack shall have a screen sufficiently fine to prevent ejection of particles of burning material. Such installations shall not be installed until approved by the city fire marshal. Such equipment and facilities shall be maintained and operated so that no objectionable smoke or odor shall result, in accordance with state law and rules on particulates and smoke density.
- c. Back yard burning, not including garbage, at dwellings of four (4) family units or less is permitted and, unless otherwise provided by ordinance or regulation, fires for the open burning of plant material grown on the premises or deposited thereon by the elements shall be permitted.
- d. No person shall kindle or maintain any premise fire or authorize any such fire to be kindled or maintained on any private land unless (1) the location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire is contained in an approved waste burner located safely not less than 15 feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
- e. The city fire marshal is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

- 8.07 MODIFICATIONS. The chief of the fire department shall have power to modify any of the provisions of this fire prevention chapter upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department. One signed copy of the decision of the chief of the fire department shall be furnished the applicant, and one signed copy shall be filed in the office of the city clerk.
- 8.08 APPEALS. Whenever the chief of the fire department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning hereof have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council within 30 days from the date of such decision.
- 8.09 PENALTIES. Any person who violates any of the provisions of this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every 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 days that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions in the same manner as provided for in the chapter on nuisances.
- 8.10 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or firefighter in the performance of his/her duty at, or going to, or returning from a fire, or while attending to his/her duties as a member of the fire department.
- 8.11 DAMAGING FIRE DEPARTMENT PROPERTY. It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.
- 8.12 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.

- 8.13 DRIVING OVER FIRE HOSE. It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any fire department official.
- 8.14 ASSISTING FIREFIGHTERS. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in his/her place.
- 8.15 PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person having charge of any of the fire apparatus belonging to the city to allow or permit the same to be used for private benefit.
- 8.16 INJURY TO FIRE APPARATUS. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

TITLE VII - COMMUNITY DEVELOPMENT

CHAPTER 1: URBAN REVITALIZATION

ORDINANCE NO. 191 (Residential)

An ordinance designating an area of Newell, Iowa as the
Newell Residential Revitalization Area.

WHEREAS, pursuant to the provisions of Chapter 404, Code of Iowa, (the “Act”), the governing body of a city may, by ordinance, designate an area of the city as a revitalization area upon the completion of procedures specified in the Act; and as a revitalization area upon the completion specified in the Act; and

WHEREAS, pursuant to the provisions of the Act, the Council of Newell, Iowa, has by resolution determined, with respect to an area within the City, hereinafter described in Section 1 and known as the Newell Residential Revitalization Area:

- (a) Newell Residential Revitalization Area is an area which is appropriate as an economic development area as designed in Section 403.17 of the Code of Iowa Department of Economic Development
- (b) The economic development of the Newell Residential Revitalization Area is necessary in the interest of the public welfare of the residents of the City of Newell and the Newell Residential Revitalization Area substantially meets the criteria set forth in Section 404.1 of the Act.

WHEREAS, pursuant to the provisions of the Act, the City prepared a Proposed Plan for the Newell Residential Revitalization Area and held a public hearing on the Proposed Plan for the Newell Residential Revitalization Area;

NOW, THEREFORE, Be It Ordained by the City Council of the City of Newell, in Buena Vista County Iowa, as follows,

Section 1. In accordance with the Act and in consideration of the recitations set out in the preamble hereof, the area formed by contiguous real estate parcels with a legal description as follows:

The Corporate City Limits of the City of Newell. The legal description can be obtained at City Hall of the Corporate City Limits.

is hereby designated as a revitalization area under the Act, which shall be known as the Newell Residential Revitalization Area.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed and approved on this 3rd day of July, 2000

CHAPTER 1: URBAN REVITALIZATION

ORDINANCE NO. 204 (Commercial/Industrial)

An ordinance designating an area of Newell, Iowa as the
Newell Commercial/Industrial Revitalization Area.

WHEREAS, pursuant to the provisions of Chapter 404, Code of Iowa, (the "Act"), the governing body of a city may, by ordinance, designate an area of the city as a revitalization area upon the completion of procedures specified in the Act; and as a revitalization area upon the completion specified in the Act; and

WHEREAS, pursuant to the provisions of the Act, the City Council of Newell, Iowa, has by resolution determined, with respect to an area within the city, hereinafter described in Section I and known as the Newell Commercial/Industrial Revitalization Area:

- (a) The Newell Commercial/Industrial Revitalization Area is an area that is appropriate as an economic development area as designed in Section 403.17 of the Code of Iowa.
- (b) The economic development of the Newell Commercial/Industrial Revitalization Area is necessary in the interest of the public welfare of the residents of the City, and the revitalization area substantially meets the criteria set forth in Section 404.1 of the Act.

WHEREAS, pursuant to the provisions of the Act, the City prepared a Plan for the Newell Commercial/Industrial Revitalization Area and held a public hearing on the Plan for the revitalization area;

NOW, THEREFORE, Be It Ordained by the City Council of Newell, in Buena Vista County, Iowa, as follows,

Section 1. In accordance with the Act and in consideration of the recitations set out in the preamble hereof, the area formed by contiguous real estate parcels with a description as follows:

All Commercial Zoned Areas:

In the Original Town west of Franklin Street, south of 1st Street, north of 3rd Street and east of Madison Street including Blocks 2, 3, 6, and 7 except the northwest corner of Block 3, which is zoned Industrial.

and

South ½ of Block 4 and north ½ of Block 5 along 2nd Street from Madison Street to Harrison Street.

and

South of Highway 7 and east of Armstrong Road, Blocks 3,4,5 and the West ½ of 10, 11, 14, and 15 in the Hillyers Addition.

and

East of Armstrong Road and north of the Railroad tracks, a section of land measuring 120 feet North of 50 feet Industrial zoned area by the Railroad tracks, 585 feet east, and 245 feet south to the Industrial area of the Railroad tracks.

All Industrial Zoned Areas:

The Railroad tracks from Clark Street to Mill Street, 175 feet north of the tracks to 125 feet south of the tracks. Then from Mill Street to Armstrong Road, 50 feet north of the Railroad tracks to 125 feet south of the Railroad tracks.
and

All of the land east of Armstrong Road and south of 1st Street and to but not including Blocks 26 and 27 and this land is north of Highway 7
and

All of the City Limits west of Armstrong Road and north of Highway 7 and south of the drainage ditch.
and

The northeast corner of Block 4 and the northwest corner of Block 3 along Madison Street and south of 1st Street in the Original Town.

is hereby designated as a revitalization area under the Act, which shall be known as the Newell Commercial/Industrial Revitalization Area.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed and approved on this 7th day of April, 2003

Editor's Note: Refer to the City's Zoning Ordinance for regulations and ordinances pertaining to zoning and subdivision regulations.

APPENDIX A - FRANCHISES

ORDINANCE NO. 240 (Electric)

ORDINANCE NO. 240

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF NEWELL, IOWA, AN ELECTRIC SYSTEM AND COMMUNICATIONS FACILITIES AND TO FURNISH AND SELL ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

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

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Newell, Iowa, hereinafter called the "City," a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2011 or as subsequently amended or changed.

Section 3. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

Section 4. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations.

Section 5. The Company shall, excluding facilities located in private easements (whether titled in

Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley of such street or alley. The City and the Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the company of relocation of company installations. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees.

If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 6. In making excavations in any streets, avenues, alleys and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with city, state or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

Section 7. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for existing Company facilities.

Section 8. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous 10 years.

Section 9. Pursuant to relocation of Company facilities as may be required by Sections 3, 5, 6, 7 and 8, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

Section 10. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

Section 11. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under state or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right of way which may constitute a trade secret or which may otherwise be protected from public disclosure by state or federal law. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time.

Section 12. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

Section 13. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

Section 14. There is hereby imposed upon and shall be collected from the retail electric customers of the Company receiving service, pursuant to the Tariff, located within the corporate limits of the City and remitted by the Company to the City, a franchise fee from each customer class as set forth below of the gross receipts, minus uncollectable amounts, derived by the Company from the delivery and sale of electric energy to customers within the corporate limits of the City;

- *Residential Customers* 0 percent

- *Non-Residential Customers* 0 percent
- *Public Authority Customers* 0 percent

Section 15. The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee, or modify, decrease or eliminate the franchise fee. The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to customer classes in compliance with Iowa law and Section 16 of this ordinance. The City does therefore exempt the customer classes or customer groups shown below franchise fees.

- Customer classes initially exempted by the City:

Section 16. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the city council.

Section 17. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

Section 18. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

Section 19. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

Section 20. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

- January, February and March
- April, May and June
- July, August and September, and
- October, November and December

MidAmerican shall provide City with notice at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

Section 21. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for *any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.*

Section 22. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

Section 23. The obligation to collect and remit the fee imposed by this ordinance is modified or repealed if:

1. Any other person is authorized to sell electricity at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate;
2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or
3. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable

order (collectively, “final franchise fee action”) that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

The other provisions of this ordinance to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefore under each of any of the following circumstances as determined to exist in the sole discretion of Company:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court.
2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.
3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

Section 24. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right of way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

Section 25. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A Party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

Section 26. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 27. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the

Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10-days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of the Company's acceptance. In the event that the Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council, this ordinance shall be void and of no effect.

Section 28. Upon the effective date of this ordinance, all prior electric franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

PASSED AND APPROVED this 4th day of February, 2013.

CITY OF NEWELL, IOWA

By: Dick Christiansen

Mayor

ATTEST:

Melinda Buchholz
City Clerk

(OFFICIAL SEAL)

I, Melinda Buchholz, City Clerk of the City of Newell, Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. 240, passed by the City Council of said City at a meeting held February 4, 2013, and signed by the mayor February 5, 2013, and published as provided by law on February 13, 2013.

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF NEWELL, IOWA, A **NATURAL GAS SYSTEM** AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 22 YEARS.

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

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company,)” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Newell, Iowa, (hereinafter called the “City,)” a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-two (22) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2015, or as subsequently amended or changed.

Section 3. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

Section 4. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff,”) at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. Relocation expenses for other hard surfaces, including pedestrian and non-motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If vegetation removal must be completed by the City as part of the City’s project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove vegetation or trees that are included in the City’s portion of the project, the City shall either remove the vegetation trees at its cost or reimburse the Company for the expenses incurred to remove said trees or vegetation. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 5. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

Section 6. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas lines, mains or facilities, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

Section 7. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten (10) years.

Section 8. Pursuant to relocation of Company facilities as may be required here under, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

Section 9. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

Section 10. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless

the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

Section 11. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

Section 12. A franchise fee of 0 percent is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of natural gas and distribution service:

A. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.

B. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

C. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

D. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

Section 13. Upon implementation of a franchise fee the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company right of way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

Section 14. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

Section 15. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 16. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this

ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that the Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council this ordinance shall be void and of no effect.

Section 17. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ordinance 246)