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**TITLE I**

**TITLE I: MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS**

# TITLE I

## CHAPTER 1: GENERAL ORGANIZATION

### ARTICLE 1 - MUNICIPAL CODE

- 1.01 TITLE. These ordinances will be known and cited as the Municipal Code of Primghar, 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. "Certified Mail" wherever used in this Code shall mean any form of mail service, by whatever name, provided by the United States post office where the post office provides the mailer with a receipt to prove mailing.  
(Iowa Code Section 618.15(1))
  3. "City" means the City of Primghar, Iowa.
  4. "City Code" or "Municipal Code" means the current Municipal Code of the City of Primghar, Iowa.
  5. "Clerk" means the City Clerk of Primghar, Iowa.
  6. "Code" means the specific chapter in which a specific subject is covered and bears a descriptive title word.
  7. "Council" means the City Council of Primghar, Iowa.
  8. "County" means O'Brien, Iowa.
  9. "Ordinances" means the ordinances of the City of Primghar, as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
  10. "Measure" means an ordinance, resolution, amendment or motion.
  11. "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".
  12. "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.

## TITLE I

13. "Ordinances" means the ordinances of the City of Primghar, as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
  14. "Parking" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
  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. "Property" shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
  17. "Property Owner" means a person owning private property in the city as shown by the county auditor's plats of the city.
  18. "Public Place" includes but is not restricted to any city-owned space or property, either open or enclosed.
  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. "Sidewalk" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
  21. "State" means the State of Iowa.
  22. "Street" means and includes any public way, highway, street, avenue, boulevard or other public thoroughfare, and includes the entire width between property lines.
  23. "Statutes, Laws" means the latest edition of the Code of Iowa as amended.
- 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.

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- 1.04 AMENDMENTS. All ordinances which amend, repeal or affect the Municipal Code will include proper reference to title, division, chapter, article, section, and subsection to maintain an orderly classification of ordinances of the city. Any amendment of an ordinance shall include in full the language of the section, subsection, or paragraph as 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 STANDARD PENALTY. Unless provided for elsewhere in the Municipal Code, any person failing to perform a duty, obtain a required license, or violating any provision of the Municipal Code, or rule or regulation adopted by reference shall be guilty of a simple misdemeanor and, upon conviction, of not less than one hundred (\$100.00) dollars and not to exceed more than five-hundred dollars (\$500) and/or imprisonment not to exceed thirty (30) days. The criminal penalty surcharge imposed by section 911.2 of the Iowa Code shall be added to a city fine and is not a part of any fine imposed by the City  
(Code of Iowa, Sec. 364.3(2))
- 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



## TITLE I

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.

## TITLE I

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 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.

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## CHAPTER 1: GENERAL ORGANIZATION

### ARTICLE 2 - BOUNDARIES

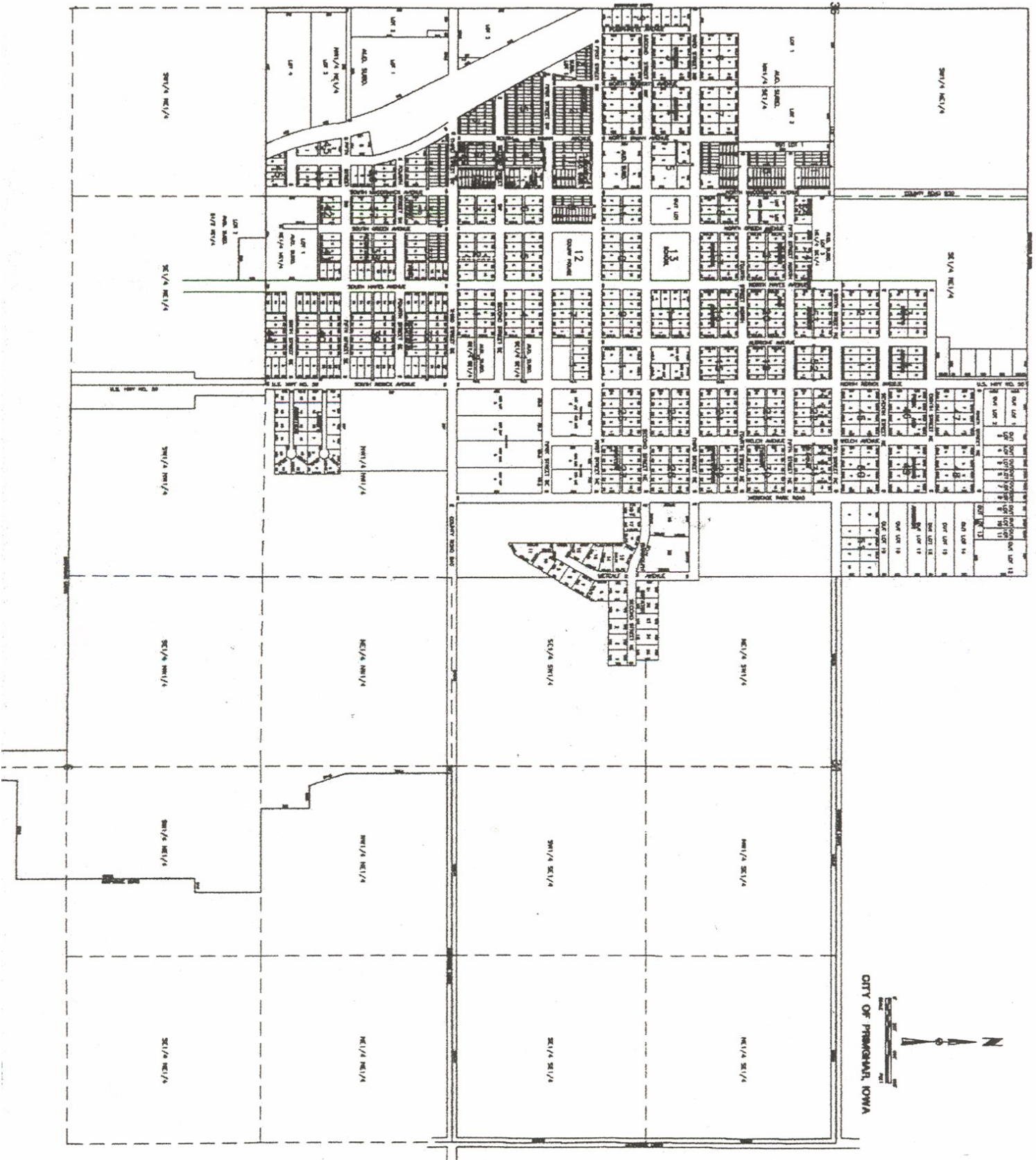
2.01 CORPORATE LIMITS. The corporate limits of the City of Primghar are described as follows:

The Corporate limits of the City are hereby declared to be such as have been heretofore or hereafter legally established by law or the acts of the City.

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

*(The following map illustrates the Corporate Limits of the City at said time of adopting this Code Book)*

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## TITLE I

### 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 Primghar, Iowa.
- 3.02 CHARTER. This article may be referred to as the Charter of the City of Primghar, Iowa.
- 3.03 FORM OF GOVERNMENT. The City of Primghar, 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 Primghar, 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)

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### 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 "SEAL" and around the margin the words "Incorporated Town of Primghar, Iowa", and the same is hereby declared to be the corporate seal. The clerk shall keep the corporate seal in his 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.

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## 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 shall be nominated as provided in Sections 376.4 to 376.9 and 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, the candidates receiving the greatest number of votes cast 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 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 Sections 63.3 and 63.4, Code of Iowa.  
(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

## TITLE I

of the office of (name of office) in Primghar, 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. Clerk,

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

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

1. CONDITIONS. The city clerk and treasurer 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 other city officials.

(Code of Iowa, Sec. 64.1A)

3. BOND APPROVED. Bonds shall be approved by the Council.

(Code of Iowa, Sec. 64.19)

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

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



# TITLE I

## 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. The council shall appoint a city clerk to perform duties prescribed by State or City law.  
(Code of Iowa, Sec. 372.13(3))
  2. TREASURER. The council shall appoint a treasurer to perform duties prescribed by State or City law.
  3. MAYOR PRO TEM. The mayor shall appoint a council member as mayor pro tem.  
(Code of Iowa, Sec. 372.4)
  4. OTHER OFFICERS AND EMPLOYEES. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.  
(Code of Iowa, Sec. 372.13(4) & 372.4)
  5. CITY ATTORNEY. The council shall appoint a city attorney to perform as prescribed by State or City law.
- 6.03 BOOKS AND RECORDS. The public has the right, upon request, to examine and copy 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 successor in office all books, papers, records, documents and property in his possession pertaining to his 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 city, unless expressly permitted by law. A contract entered into in violation of this section is void.  
(Code of Iowa, Sec. 362.5 & 362.6))

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- 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 he 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 office during a term of office shall be filled by the council within forty (40) days after the vacancy occurs, or as otherwise provided by law.  
(Code of Iowa, Sec. 372.13(2))
- 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 MEETINGS. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda, shall be given.  
(Code of Iowa, Sec. 21.4)
  2. MEETINGS OPEN. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.  
(Code of Iowa, Sec. 21.3)
  3. MINUTES. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the

## TITLE I

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

5. CAMERAS AND RECORDERS. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

2. INVESTMENT OF FUNDS. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.

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

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

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

4. STOCK INTERESTS. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contract is for professional services

## TITLE I

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

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6.14 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, to the detriment of the City.

(Code of Iowa, Sec. 721.2(5))

## TITLE I

### 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. He 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. He 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. 380.5 & 380.6(2))
4. REPORTS. Make oral and written reports to the council at the first meeting of every month which concern municipal affairs, departments, 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, upon order of the council.
9. AUTHORIZE LICENSES AND PERMITS. Sign all licenses and permits granted by the council, except those legally designated to be issued by another municipal officer.

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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. ABSENTEE OFFICER. Provide that the duties of an absentee officer are carried on during the officer's absence.
  12. 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))
  13. 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 one thousand, three hundred and eighty dollars (\$1,380) 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.
  3. City Department Heads.
  4. Standing Committee

## TITLE I

### 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. Serve 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 duties.
3. LIMITED POWER. Shall not have power to employ or discharge officers or employees that the mayor has the power to appoint, employ, or discharge without approval of the council.
4. VOTING. May vote as a member of the council.

8.02 COMPENSATION. If the mayor pro tem performs the duties of the mayor during his 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 his performance of the mayor's duties and upon the compensation of the mayor.  
(Code of Iowa, Sec. 372.13(8))



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### CHAPTER 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. The Council 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 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 require bidding according to the Code of Iowa requirements.  
(Code of Iowa, Sec. 384.95-384.101)
5. OFFICERS AND EMPLOYEES. Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.  
(Code of Iowa, Sec. 372.13(4&8))
6. PRESCRIBE COMPENSATION. By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor 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))

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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. 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 powers 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 twenty-five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of all the council members. Each councilman's vote on an ordinance, amendment, or resolution must be recorded.  
(Code of Iowa, Sec. 380.4)

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

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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))

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 (2) council members; the first named shall be chairman. The mayor shall name the chairman of special committees and such other members as he 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 second Monday of each month at 7:00 p.m. in the Council Chambers in City Hall.

Editor's Note: Title I, Section 9.04 was amended by Ordinance 2004-19, approved by Council on June 9, 2008.

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))

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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))
- 9.05 **ELIGIBILITY FOR APPOINTMENT.** A councilman 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 he is elected.  
(Code of Iowa, Sec. 372.13(9))
- 9.06 **COMPENSATION.** The salary of each council member shall be thirty dollars (\$30.00) for each regular session council meeting attended and twenty dollars (\$20.00) for each special session or workshop attended.  
(Code of Iowa, Sec. 372.13(8))
- 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 **APPOINTMENTS.** The Council shall appoint the following officials:
1. Committee, commission and board members.
  2. City Administrator.
  3. City Clerk.
  4. Fire Chief.
- 9.10 **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.

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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)

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### CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

#### ARTICLE 10 - CITY CLERK

10.01 CREATION OF OFFICE. There is hereby created the office of city clerk 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. 78.2(4))
2. ATTEND MEETINGS. Attend all meetings of the council and its committees.
3. RECORD PROCEEDINGS. Record and preserve a record of meeting proceedings and publish a summary of Council proceedings after each regular or special meeting; 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(2) & 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(3))
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

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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.
- 10.03 CHIEF ACCOUNTING OFFICER. The clerk shall be chief accounting officer of the city and:
1. BUDGET ACCOUNTS. Maintain the budgetary accounts required by law and as directed by the council.
  2. BUDGET REPORTS. Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
  3. REVENUES FROM CITY UTILITY. The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited with the treasurer and kept in a separate account from each other and other funds of the city.  
(Code of Iowa, Sec. 384.85)
  4. PAY CLAIMS. Pay all claims against the city only upon council order or other council authorization.
  5. AUTHENTICATE DOCUMENTS. The clerk shall authenticate all such measures expect motions with the clerk's signature, certifying the time and manner of publication when required.  
(Code of Iowa, Sec. 380.7(3))
  6. BALANCE ACCOUNTS. Reconcile the bank statements with the clerk's books and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.
  7. INVESTMENTS. Invest all idle funds and other funds as directed by the council in accordance with law.  
(Code of Iowa, Sec. 453.9)

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8. RECORD RECEIPTS. The clerk shall keep an accurate record of all money or securities received by the treasurer on behalf of the city and specify the date, from whom, and for what purpose received.
  9. RECORD DISBURSEMENTS. The clerk shall keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
  10. SPECIAL ASSESSMENTS. The clerk shall keep a separate account of all money received by the clerk from special assessments.
  11. DEPOSIT FUNDS IN BANK. The clerk shall, upon receipt of monies to be held in the clerk's custody and belonging to the city, deposit the same in banks selected by the council in amounts not exceeding monetary limits authorized by the council.
  12. DEBT SERVICE. The clerk shall keep a register of all bonds outstanding and record all payments of interest and principal.
  13. DEPOSITORY DECLARATION. The clerk shall determine the anticipated level of bank deposits for making the depository declaration to the State Treasurer as required by Chapter 453, Code of Iowa.
  14. RECONCILIATION WITH TREASURER. The clerk shall reconcile the clerk's books with the treasurer's every month.  
(Code of Iowa, Sec. 452 & 453)
- 10.04 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



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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 public 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 districts, 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)

10.05 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 or law must be in a newspaper published at least once weekly and having general circulation in the city (except that ordinances and amendments may be published by posting in the official places set by ordinance).  
(Code of Iowa, Sec. 362.3(2))
3. PUBLICATION OF MINUTES. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. Matters discussed in closed session pursuant

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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))

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

1. City Hall

(Editor's Note: Section 10.07 was amended by Ordinance 2004-13, passed and approved by Council on December 12, 2006. The official posting location(s) went from four locations to one.)

10.07 POWERS AND DUTIES: DEPUTY CITY CLERK. The clerk, or in the absence of inability of the clerk to act, the deputy clerk, shall have the powers and duties as provided in this article, the Code of Ordinances and the law.

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

1. Shall administrate the activities of the city offices and other departments as directed by the city council.
2. Shall coordinate with the Superintendent of Utilities all activities of city employees.
3. Shall see that the laws and ordinances of the municipal corporation are faithfully enforced and executed.
4. Shall attend all official meetings of the city council and its committees; and to prepare in cooperation with the mayor and Superintendent of Utilities, the agenda and order of business for the city council and committee meetings.
5. Shall coordinate with the Superintendent of Utilities the supervision, taking and recording of inventories.
6. Shall coordinate with the Superintendent of Utilities the purchasing of items as may be necessary, economical or advisable.

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7. Shall act as personnel officer for the city, and in cooperation with the city council and Superintendent of Utilities, recommend salary and wage scales and working conditions for all employees of the city.
8. In cooperation with the Superintendent of Utilities, be responsible for the training of city employees and for continuing education to retain any certification already earned, and shall keep a record of training and Continuing Education Units (CEU's) earned.
9. Subject to council approval, hire or dismiss city employees, and make recommendations as to supervisory personnel upon request by the city council.
10. Suspend with pay city employees subject to review by the city council pursuant to the procedure set forth for the removal of appointed officers.
11. Shall assure that complaints, grievances, recommendations, and other matters receive prompt attention by a responsible official and to assure that all matters are expeditiously resolved.
12. Shall take charge of all city-owned buildings and grounds; and in cooperation with the Superintendent of Utilities, administer the operation, maintenance and improvements of all city-owned property, lands and buildings and be responsible for the security of same.
13. In cooperation with the Superintendent of Utilities, have charge of the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for public works or public improvements, the cleaning, sprinkling, and lighting of streets, alleys and public places, the collection and disposal of wastes, and the preservation of tools, equipment, vehicles and appliances belonging to the Municipal Corporation.
14. In cooperation with the Superintendent of Utilities, manage all municipal parks, airports and all municipal water, lighting, power plant and sewer facilities, and streets.
15. Shall supervise in cooperation with the Superintendent of Utilities, the performance of all contracts for work to be done for the city, make all purchases of materials and supplies are received and are of the character and quality called for by the contract.
16. Represent the city in intergovernmental matters and affairs as directed by the mayor and city council.
17. Be informed concerning current state and federal legislation affecting the city and in cooperation with the Superintendent of Utilities, submit recommendations to the city council.

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18. Shall ascertain and investigate the availability of state and federal funds for programs beneficial to the city and apply for such funds under the direction of the mayor and city council.
19. Shall perform the administrative duties consistent with laws as may be prescribed by the city council from time to time.
20. Shall make available to the city council each month an itemized financial report in writing showing receipts and disbursements for each line item of the current fiscal year's budget.
21. Shall provide for the issuance, suspension and revocation of such licenses and permits as are authorized by law or ordinance, cause a record thereof to be kept, and collect and deposit in a designated depository, all fees for licenses and permits.
22. Shall seek clarification from the city council whenever any of the duties are uncertain or unclear.
23. In cooperation with the Superintendent of Utilities, keep the city council informed of conditions of the city and of its future needs.
24. Administer Drug and Alcohol Program and the OSHA 300 Log.
25. See that necessary reports are filed in a timely manner as required by I.D.O.T., W.A.P.A., I.U.B., I.D.N.R., State Auditor's Office, Annual Financial Report and RUT Report.
26. Evaluate staff by use of an approved evaluation form and maintain personnel files.
27. Be first aid and CPR certified.
28. Should complete the three week Municipal Clerk's school at I.S.U., if not already completed.
29. Represent the City, Mayor, and Council on various boards and commissions if appointed to same.
30. Aid the Council in developing a budget and file it with the County Auditor in a timely manner.
31. Develop/generate new required reports/programs as mandated by Federal and State Government.
32. Be familiar with Iowa Utilities Board rules and regulations for the electric utility.
33. Be familiar with the Ordinance Book.
34. Perform any other tasks as assigned by the Mayor or Council.

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36. Represent the City in a positive manner with other communities in the area and within the Community of Primghar.
37. Shall maintain the master MATERIALS SAFETY DATA SHEET book and shall update additional copies as necessary.
38. Shall be familiar with the computer programs in operation.
39. Administer any grant programs.
40. Maintain confidential drug and alcohol records, medical and personnel files.
41. Maintain CEU's for all employees.
42. Attend relevant meeting and training sessions.

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

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

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### CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

#### ARTICLE 11 - TREASURER

- 11.01 APPOINTMENT. The treasurer shall be appointed by the council for a term of two (2) years.
- 11.02 POWERS AND DUTIES. The treasurer shall have the following powers and duties:
1. CUSTODY OF FUNDS. Be responsible for the safe custody of all funds of the city in the manner provided by law and council direction, including all funds received or held in custody for any board or commission or agency existing in the city created by council or the people.
  2. RECONCILIATIONS, REPORTS. Reconcile the bank statements with the city's books, certify monthly to the council the balance of cash and investments of each fund and amounts received and disbursed, and reconcile the treasurer's books with the clerk's every month.
  3. RECORDS. Keep such books as will account for all funds of the city, including any warrants out at interest, and call such warrants at the earliest opportune time.
  4. OTHER DUTIES. Perform such other duties as specified by the council by resolution or ordinance.
  5. RECORD OF FUNDS. The treasurer shall keep the record of each fund separate.
- 11.03 COMPENSATION. The treasurer shall be paid such compensation as specified by resolution of the council.

## TITLE I

### CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

#### ARTICLE 12 - CITY ADMINISTRATOR

12.01 CREATION OF OFFICE. There is hereby created the position of City Administrator to be appointed by a majority of the Council.

12.02 DUTIES OF ADMINISTRATOR. The duties of the Clerk shall be as follows:

1. Serve as the Chief Administrative Officer for the City fulfilling all of the statutory duties of this office.
2. Supervise and give direction to all city department heads concerning departmental functions. The Administrator may examine all department functions and records and call for special reports from department heads at any time.
3. Attend all meetings of the council unless excused by the Mayor.
4. Recommend to the council such measures, as the Administrator may deem necessary or expedient for the good government and welfare of the City.
5. Have the general supervision of and direction of the administration of the city government and may appoint, with approval of the Council, such administrative assistants as shall be deemed advisable.
6. Supervise and direct the official conduct of all officers of the City whom the Clerk has power to appoint.
7. Supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.
8. Authority to recommend employment, reclassification, or discharge of all employees of the City, subject to the provisions of the Soldier's Preference Law (Iowa Code, Chapter 70) and the Civil Service Law (Iowa Code, Chapter 365) except the City Clerk and Fire Chief, all subject to approval of the Council.
9. Cooperate with any administrative agency.
10. The Administrator or any person appointed for this purpose, may summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under, his or her supervision.
11. Keep the council fully informed of the financial and other conditions of the City, and its future needs.

## TITLE I

12. Prepare and submit to the Council annually the required budgets.
  13. Supervise the enforcement and execution of all City laws.
  14. Have charge and control of the police and fire departments.
  15. Sign payroll and voucher checks.
  16. Supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the city, including the making and preservations of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
  17. During any period of temporary or extended absence of the City Administrator, or until such time as the Administrator may in the event of death or disability, be replaced by the council, each department head shall be responsible for and accountable to the City Council for their several areas of expertise and their departmental responsibilities as specified by their individual job descriptions.
- 12.03 COMPENSATION. The Administrator shall receive such annual salary as the council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the city, in the manner provided for paying other officers and employees.



## TITLE I

### CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

#### ARTICLE 13 - CITY ATTORNEY

13.01 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 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 an 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, appear on behalf of the city before any court tribunal, commission, or board and prosecute or defend all actions and proceedings when so requested by the mayor or the council.
7. **REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.** Not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The city attorney shall, however, if directed by the council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of said office or employment.
8. **CERTIFY BONDS.** 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.

## TITLE I

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 or coming under 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.
- 13.02 COMPENSATION. The city attorney shall be paid such compensation as specified by resolution of the council.  
(Code of Iowa, Sec. 372.13(8))

## TITLE I

### CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

#### ARTICLE 14 - POLICE DEPARTMENT

- 14.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.  
(Code of Iowa, 28E.30)

## TITLE I

### CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

#### ARTICLE 15 - PARK BOARD

15.01 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)

15.02 ORGANIZATION. The term of office of board members shall be five (5) years, except that the members first named shall hold office for such terms not exceeding three years, that the terms of not more than one-third of the members will expire in any one year. Any vacancy occurring on the board, caused by resignation or otherwise, shall be filled by the council for the unexpired term. All members of such board shall serve without compensation except their actual expenses which shall be subject to the approval of the council. The board shall choose annually at its first regular meeting one of its members to act as chairman and another as vice-chairman to serve in the absence of the chairman.

15.03 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. BUDGET. Be limited by the annual budget designated for parks and recreation by the council.
3. 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.
4. RULES AND REGULATIONS. Make rules and regulations governing the use of park 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.

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

15.05 COMPENSATION. Park board members shall receive no salary.

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

15.06 PARKS, SWIMMING POOL & RECREATION FEES. The City council may from time-to-time set fees for the use of the City's parks, swimming pool and other recreational activities. These fees are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

## TITLE I

### CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

#### ARTICLE 16 - LIBRARY BOARD

- 16.01 PUBLIC LIBRARY. The free public library established for the City of Primghar is to be known as the Primghar Public Library.
- 16.02 BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees is established and shall consist of five members to be appointed by the mayor and approved by the council.  
(Code of Iowa, Sec. 392.5)
- 16.03 QUALIFICATIONS. All board members shall be bona fide citizens, over the age of eighteen (18).
- 16.04 TERMS. Of the five board members, one member shall hold office for two years, two for four years, and two for six years, from the first day of July following the establishment of the board. At the board's first meeting, members shall cast lots for the respective terms, reporting the result to the council. All subsequent terms and appointments thereto shall be for six years each, except to fill vacancies.
- 16.05 VACANCIES. A board position shall become vacant if the trustee moves permanently from the city, or is absent from 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.
- 16.06 POWERS AND DUTIES. The board shall have the following powers and duties:
1. OFFICERS. Meet and elect a chairperson, vice-chairperson, and secretary 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.

## TITLE I

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.
- 16.07 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.
- 16.08 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.

## TITLE I

- 16.09 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.
- 16.10 ANNUAL REPORT. The board shall submit an annual comprehensive report to the council after the close of the municipal fiscal year.
- 16.11 OPEN MEETINGS. All meetings of the library board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.
- 16.12 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))
- 16.13 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 16.12 of this Article.  
(Iowa Code, Sec. 702.22(2))
- 16.14 INJURY TO BOOKS OR PROPERTY. It shall be unlawful for a person to willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any library materials (i.e. newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the library or reading room), or equipment.
- 16.15 THEFT OF LIBRARY MATERIALS. The fact that a person has concealed library materials or equipment as defined in sections 16.12 and 16.13 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.

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### 16.16 DETENTION AND SEARCH.

1. Persons concealing property as set forth in section 16.15 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 16.15.



## TITLE I

### CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

#### ARTICLE 17 - FIRE DEPARTMENT

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

17.02 FIREMAN-VOLUNTEER. Not more than twenty-five (25) residents of Primghar, Iowa or persons who reside within three (3) miles of the city limits of Primghar, Iowa from the ages of eighteen (18) and seventy-five (75) shall be appointed to serve as volunteer firemen. Prior to appointment as a volunteer fireman, a volunteer fireman must pass a medical physical examination. A fireman must have a current active Iowa driver's license, not be a drug addict or drunkard and is of a good moral character and has not been convicted of a felony..

Editor's Note: Ordinance 222 was approved on November 11, 1996 as Chapter 2.56.040 Fireman-Volunteer and is now the first full sentence of section 17.02 of this chapter. The last two sentences of 17.02 were added at time of the 2004 Codification.

17.03 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the chief.

17.04 ELECTION OF OFFICERS. The department shall elect a chief and such other officers as necessary, but the election of chief shall be subject to the approval of the council. In case of absence of the chief, the officer next in rank shall be in charge and have and exercise all the powers of chief.

17.05 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for workmen's compensation and against liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract.

(Code of Iowa, Sec. 85.2, 85.61, 410.18 & 517A.1)

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

(Code of Iowa, Sec. 613A.2 & 517A.1)

17.07 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))

## TITLE I

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

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

17.09 FIRE CHIEF. The council shall appoint the fire chief for a term of one (1) year or for the balance of a term if to fill a vacancy. The council may remove the fire chief by written order setting out the reasons for removal which shall be filed with the clerk. The fire chief, before entering upon the duties of his office, shall qualify for office by taking the oath prescribed in Title 1, Chapter 1, Section 5.07 of this Municipal Code.

17.10 POWERS AND DUTIES. The duties of the fire chief shall be as follows:

1. DIRECT DEPARTMENT. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the fire chief.
2. ENFORCE DEPARTMENT REGULATIONS. Enforce all rules and regulations established by the council for the conduct of the affairs of the fire department.
3. CONTROL DEPARTMENT PROPERTY. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
4. KEEP RECORDS. Keep records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.
5. REPORTS. Make monthly written reports to the mayor and council concerning the general status and efficiency of the fire department, the number of alarms answered during the previous month, and any additional information. He shall compile and file with the mayor an annual report summarizing the department's activities for the year and containing recommendations for improvements in the department.
6. ENFORCE ORDINANCES AND STATE LAWS. Enforce all ordinances and, here enabled, state laws regulating the following:
  - a. Fire prevention
  - b. Maintenance and use of fire escapes
  - c. The investigation of the cause, origin and circumstances of fires
  - d. The means and adequacy of exit in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose

## TITLE I

- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
7. **RIGHT OF ENTRY.** Have the right of entry into any building or premises within his jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. He shall conduct such investigation or inspection that he considers necessary in light of state law, regulation or ordinance.
8. **MAKE RECOMMENDATIONS.** Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
9. **AID STATE FIRE MARSHAL.** Aid the state fire marshal when requested in the performance of his duties by investigating, preventing and reporting data pertaining to fires.
10. **APPOINT FIREMEN.** Appoint carefully selected volunteer firemen, with council approval, fill vacancies among them and discharge them when necessary.
11. **INVESTIGATIONS.** Investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. If death, serious bodily injury or property damage in excess of two hundred thousand dollars occurs as a result of a fire, or if arson is suspected, he shall notify the state fire marshal's division immediately. Within ten (10) days following the end of each month the chief shall file a report of all fire incidents with the state fire marshal's division in the form required by the state fire marshal.
12. **CONTROL OF SCENE** Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.  
(Code of Iowa, Sec.102.2)
13. **AUTHORITY TO BARRICADE.** When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right -of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting effort of the fire department, to control the scene until any required investigation is complete or to preserve evidence related to the fire or other emergency.  
(Code of Iowa, Sec.102.3)

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17.11 FIREMEN-DUTIES. When called by the Chief, all firemen shall report for duty immediately in the manner directed by the chief. They shall be subject to call at any time. They shall obey strictly the commands of any other fireman who has been appointed by the chief in advance if they expect to be absent from the city or their residences within three miles of the city limits of Primghar, Iowa for twelve (12) hours or more. Firemen shall report for training as ordered by the chief.

Editor's Note: Ordinance 222 was approved on November 11, 1996 as Chapter 2.56.050 Fireman-Duties and is now section 17.11 of this chapter.

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

17.13 COMPENSATION. The compensation of the fire chief shall be determined by resolution of the council.

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

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

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

17.17 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.

17.18 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.

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### CHAPTER 5: EMERGENCY MEDICAL SERVICES

#### ARTICLE 18 - AMBULANCE SERVICE

- 18.01 PURPOSE. The voluntary Ambulance Service is established to provide emergency transportation for persons in need of medical services.
- 18.02 MEMBERSHIP. Members of the Ambulance Service shall be appointed by the Director of the Ambulance Service, subject to Council approval. A person shall not be eligible for appointment unless such person:
1. Is a citizen of the United States and a resident of the City or works inside corporate limits of the City.
  2. Is at least 18 years of age.
  3. Has a current active Iowa drivers license.
  4. Is not a drug addict or drunkard.
  5. Is of good moral character and has not been convicted of a felony.

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 Director and approval by the City Council, each new member shall serve a six (6)-month probationary period. The Director of Ambulance Services shall then advise the city council of the results of his/her review, at which time the council shall either approve or reject said ambulance member's continued appointment.

- 18.03. ELECTION OF OFFICERS. Members of the Department, pursuant to the procedures set forth in the rules and regulations attached hereto, shall elect the following officers:
1. Director
  2. Assistant Director
  3. Secretary
  4. Training Officers

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

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### 18.04. POWERS AND DUTIES OF OFFICERS.

#### 1. THE DIRECTOR SHALL:

- A. Be approved by the 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 Director by written order setting out the reasons for removal which shall be filed with the Clerk. The Director, before entering upon the duties of his office, shall qualify for office by taking oath prescribed by Title I, Chapter I, Section 5.07 of this Municipal Code.
- B. 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 Director. The Director shall run the ambulance meetings. He shall be responsible for maintaining the call schedule and shall set up practice runs with the assistance of the other officers.
- C. Enforce department regulations. Enforce the rules and regulations attached hereto as established by the Council for the conduct of the affairs of the Ambulance Service.
- D. 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.
- E. Keep records. Keep records of the Ambulance Service personnel, operating costs and efficiency of each element of ambulance equipment, depreciation of all equipment and apparatus, and the number of responses to requests for transportation, their cause and location.
- F. Is the contact person for the Mayor and Council concerning the general status and efficiency of the Ambulance Service, and any other agency wishing to do business with the Ambulance Service.
- G. Appoint carefully selected volunteer members, fill vacancies among them, and discharge them when necessary, all subject to Council approval.
- H. Does payroll for ambulance service personnel.
- I. Submitting work hours to city office.
- J. Billing for equipment to city office.

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### 2. ASSISTANT DIRECTOR:

- A. The Assistant Director shall assist the Director in the discharge of their duties and, in their absence, shall officiate for the Director. In case of absence of the Director and Assistant Director, the officer next in rank shall be in charge and exercise all powers of the Director. The Assistant Director is responsible for scheduling work hours of ambulance service personnel. In addition thereto, the Assistant Director shall be in charge of setting up continuing education hours for the Service employees.

### 3. SECRETARY

- A. The Secretary shall keep a correct roll of the Department and call the same precisely at the hour appointed for meetings. They shall keep a correct record of the proceedings of the Department and at each meeting shall read the minutes of the preceding meeting. They shall, upon request, conduct any correspondence pertaining to the Service. It shall be the duty of the City to keep an accurate account of all monies received pertaining to the Service and pay all bills approved by the Service. It shall be the City's duty to send patients bills for services rendered by the Ambulance Service and to maintain the Ambulance Service's employee payroll.

### 4. MAINTENANCE SUPERVISOR:

- A. The Maintenance Supervisor shall be responsible for seeing that the vehicles are maintained and kept in a clean condition. In addition thereto, the maintenance supervisor shall keep a log on the vehicles and shall keep the membership apprized as to any major concerns as to the condition of the Ambulance Service vehicles.

18.05 ACCIDENTAL INJURY INSURANCE. The 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, whether within or outside the corporate limits of the City. All volunteers shall be covered by the contract.

18.06 LIABILITY INSURANCE. The 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 within or outside the corporate limits of the City.

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

1. Meetings. All meetings of the Ambulance Service shall be set by the Director.
  - a. The business meetings of the Ambulance Service shall be the third Tuesday of each month, unless members are notified otherwise. The business meetings of the department shall not be regularly scheduled for the months of January and February. Practice runs are to be scheduled by the Director and will be held on the third Tuesday of each month, following the meeting. When a regular meeting or practice run occurs on a holiday, such meeting shall be held on the following Tuesday evening. Any two officers of the Service shall have the power to call a meeting whenever they deem it necessary.
  - b. For an official meeting, there shall be no requirement of a quorum and the majority in attendance at said meeting shall rule.
  - c. The proceedings in all cases will be governed by the Director. The order of business for all regular meetings shall be as follows:
    1. Roll call.
    2. Reading of minutes of the previous meeting.
    3. Treasurer's report and reading of bills.
    4. Committee reports.
    5. Officer's report.
    6. Report of the executive committee.
    7. Balloting of members.
    8. Unfinished business.
    9. Miscellaneous business.

The order of business for 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.
2. OFFICERS. The department membership shall hold an annual election of officers. Any member is eligible to be elected an officer. No one will be allowed to hold more than one (1) office at any time. Nominations for an office will be made at the regular November meeting. Within seven (7) days of said meeting, the Secretary shall be responsible for mailing ballots to all eligible members. The ballots must be returned to the Secretary within two (2) weeks of mailing. The Secretary shall be responsible for announcing the results of the election at the December business meeting. In the case of a tie vote, a simple toss of the coin will break that tie and one of the two candidates shall call the toss. Only members who prior to the November meeting have taken five (5)



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calls and/or attended five (5) meetings in the previous twelve (12) months shall be eligible to vote.

a. Any member feeling aggrieved by any decision of an officer in command may appeal to the Department at any regular or special meeting.

3. MEMBERS. Every newly-appointed member shall be in a probation period of six (6) months.

a. Members can be dismissed from the Ambulance Service by:

1. A serious infraction of a service rule or state regulation.

2. A membership majority vote.

3. To serve as Medical Director.

4. State agencies governing emergency services .

b. No member can purchase items without a vote by the membership with the exception of needed medical supplies which are purchased by the Director.

c. All members are to be paid by the call at an amount voted upon by the membership.

4. GENERAL RULES

a. Shifts are from 6:00 a.m. to 6:00 p.m. and from 6:00 p.m. to 6:00 a.m. Members who are unable to fill their assigned shift are responsible for finding their own replacement.

b. No alcoholic beverages are to be consumed while on duty.

c. An ambulance cannot leave the garage for a call without a driver and one medical person on board, unless the driver is notified that the medical person is on the scene and has directed them to proceed to the site.

d. Any required continuing education is paid for by the Ambulance Service, but only upon prior approval by the membership.

e. To be a driver, a person must have done the following:

1. Taken a defensive driving course;

2. Have a current CPR certification; and,

3. Have received communications instruction.

## TITLE I

f. To be designated as medical personnel, a member must:

1. Have an EMT certification and maintain the certification and follow the laws governing that certification.

### 5. 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 alteration 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 of two-thirds (2/3) of the members present.
- d. Any such proposal, once passed by a favorable vote of the membership, subject to approval by the City Council.

18.08 MUTUAL AID. Subject to the approval by resolution of the Council, the Service may enter into mutual aid agreements with other legally constituted ambulance services. Copies of such agreements shall be filed with the Clerk.

1. AMBULANCE RATES. The purpose of ambulance rates is to fix ambulance rates for the municipally owned ambulance service. Ambulance service will be furnished to the residents of Primghar and the surrounding areas. Rates for ambulance services will be established by ordinance. Rates for ambulance services are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

(Editor's Note: Section 18.08 was approved by City Council as ordinance 235, Chapter 13.36 Ambulance Rates).

18.09 COMPENSATION. The compensation of the EMS personnel shall be determined as specified by resolution of the council.

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

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**CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS**

**ARTICLE 19 - (Reserved for Future Use)**

**TITLE I**

**CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS**

**ARTICLE 20 – (Reserved for Future Use)**

## TITLE I

### CHAPTER 6: FISCAL MANAGEMENT

#### ARTICLE 21 - BUDGET

21.01 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.

21.02 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 the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the mayor and clerk and at the city library.

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

## TITLE I

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))

- 21.03 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 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

## TITLE I

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.

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### CHAPTER 6: FISCAL MANAGEMENT

#### ARTICLE 22 - FUNDS

22.01 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.

22.02 SPECIAL FUNDS; CASH FUNDS.

1. PETTY CASH FUND. The clerk shall be custodian of a petty cash fund not to exceed fifty dollars (\$50.00) for the payment of small claims for minor purchases, collect-on-delivery, transportation charges, and small fees customarily paid at the time of rendering a service. The clerk shall obtain some form of receipt or bill acknowledging payment by the vendor of his 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. DEPOSIT OF FUNDS. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of City Clerk. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
3. 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)



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22.03 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)

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## CHAPTER 6: FISCAL MANAGEMENT

### ARTICLE 23 – INVESTMENT POLICY

23.01 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. Following is the investment policy.

23.02 SCOPE OF INVESTMENT POLICY.

The investment policy of the City of Primghar shall apply to all operating funds, bond proceeds, and other funds and all investments transactions involving operating funds, bond proceeds and other funds accounted for in the financial statements of the City of Primghar. Each investment made pursuant to this Investment Policy must be authorized by applicable law and this written Investment Policy.

The investment of bond funds or sinking funds shall comply not only with this investment policy, but also be consistent with any applicable bond resolution.

This investment policy is intended to comply with Iowa Code Chapter 12B.

Upon passage and upon future amendment, if any, copies of this investment policy shall be delivered to all of the following:

1. The governing body or officer of the City of Primghar to which the investment policy applies.
2. All depository institutions or fiduciaries for public funds of the City of Primghar.
3. The auditor engaged to audit any fund of the City of Primghar.

In addition, a copy of this Investment policy shall be delivered to every fiduciary or third party assisting with or facilitating investment of the funds of the City of Primghar.

23.03 DELEGATION OF AUTHORITY.

In accordance with Code of Iowa Section 12B.10(1), the responsibility for conducting investment transactions resides with the City Clerk/Treasurer of the City of Primghar. Only the City Clerk/Treasurer and those authorized by resolution may invest public funds and a copy of any empowering resolution shall be attached to this investment policy.

All contracts or agreements with outside persons investing public funds, advising on the investments of public funds, directing the deposit or investment of public funds or acting in a fiduciary capacity for the City of Primghar shall require the outside person to notify the City of Primghar in writing, within thirty days of receipt of all communication from

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the Auditor of the outside person or any regulatory authority, of the existence of a material weakness in internal control structure of the outside person or regulatory orders or sanctions regarding the type of services being provided to the City of Primghar by the outside person.

The records of investment transactions made by or on behalf of the City of Primghar are public records and are the property of the City of Primghar whether in the custody of the City of Primghar or in the custody of a fiduciary or other third party.

The City Clerk/Treasurer shall establish a written system of internal controls and investment practices. The controls shall be designed to prevent losses of public funds, to document those officers and employees of the City of Primghar responsible for elements of the investment process and to address the capability of investment management. The controls shall provide for receipt and review of the audited financial statement and related reports on internal control structure of all outside persons performing any of the following for this public body.

1. Investing public funds.
2. Advising on the investment of public funds.
3. Directing the deposit or investment of public funds.
4. Acting in a fiduciary capacity for the City of Primghar.

A bank, savings and loan, or credit union providing only depository services shall not be required to provide an audited financial statement and related report on internal control structure.

The City Clerk/Treasurer of the City of Primghar and all employees authorized to place investments shall be bonded in the amount of \$50,000.00.

### 23.04 OBJECTIVES OF INVESTMENT POLICY.

The primary objectives, in order of priority, of all investment activities involving the financial assets of the City of Primghar shall be the following:

1. **Safety:** Safety and preservation of principal in the overall portfolio is the foremost investment objective.
2. **Liquidity:** Maintaining the necessary liquidity to match expected liabilities is the second investment objective.
3. **Return:** Obtaining a reasonable return is the third investment objective.

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### 23.05 PRUDENCE.

The City Clerk/Treasurer of the City of Primghar, when investing or depositing public funds, shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a person acting in a like capacity and familiar with such matters would use to attain the Section 23.04 investment objectives of this Investment Policy. This standard requires that when making investment decisions, the City Clerk/Treasurer shall consider the role that the investment or deposit plays within the portfolio of assets of the City of Primghar and the investment objectives stated in Section 23.04 of this Investment policy.

When investing assets of the City of Primghar for any given period, the City Clerk/Treasurer shall request competitive investment proposals for comparable credit and term investments from a minimum of two investment providers.

### 23.06 INSTRUMENTS ELIGIBLE FOR INVESTMENT.

Assets of the City of Primghar may be invested in the following:

1. Interest bearing savings accounts, interest bearing money market accounts, and interest bearing checking accounts at any bank, savings and loan association or credit union in the State of Iowa. Each bank must be on the most recent Approved Bank List as distributed by the Treasurer of the State of Iowa or as necessary by notice inserted in the monthly mailing by the Rate Setting Committee. Each financial institution shall be properly declared as a depository by the governing body of the City of Primghar. Deposits in any financial institution shall not exceed the amount approved by the governing body of the City of Primghar.
2. Obligations of the United States government, its agencies and instrumentalities.
3. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to Code of Iowa Chapter 12C.
4. Iowa Public Agency Investment Trust (“IPAIT”).
5. Prime bankers’ acceptances that mature within 270 days of purchase and that are eligible for purchase by a federal reserve bank.
6. Commercial paper or other short-term corporate debt that matures within 270 days of purchase and is rated within the two highest classifications, as established by at least one of the standard rating services approved by the Superintendent of Banking.
7. Repurchase agreements, provided that the underlying collateral consists of obligations of the United States government, its agencies and instrumentalities and takes delivery of the collateral either directly or through an authorized custodian.

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8. An open-end management investment company registered with the Federal Securities and Exchange Commission under the federal Investment Company Act of 1940, 15 U.S.C. Section 80(a), and operated in accordance with 17 C.F.R. Section 270.2a-7, whose portfolio investments are limited to those instruments authorized in this Section 23.06 of this Investment Policy.
9. Warrants or improvement certificates of a levee or drainage district.

All instruments eligible for investment are further governed by all other provisions of this investment policy, including Section 23.08 Investment Maturity Limitations and Section 23.09, Diversification Requirements of this Investment Policy.

### 23.07 PROHIBITED INVESTMENTS AND INVESTMENT PRACTICES.

Assets of the City of Primghar shall not be invested in the following:

1. Reverse repurchase agreements.
2. Futures and options contracts.

Assets of the City of Primghar shall not be invested pursuant to the following investment practices:

1. Trading of securities for speculation or the realization of short-term trading profits.
2. Pursuant to a contract providing for the compensation of an agent or fiduciary based upon investment performance of the invested assets.
3. If a fiduciary or other third party with custody of public investment transaction records of the City of Primghar fails to produce records requested by the City of Primghar within a reasonable time, the City of Primghar shall make no new investment with or through the fiduciary or third party and shall not renew maturing investments with or through the fiduciary or third party.

### 23.08 INVESTMENT MATURITY LIMITATIONS.

Operating funds must be identified and distinguished from all other funds available for investment. Operating funds are defined as those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.

All investments authorized in Section 23.06 are further subject to the following investment maturity limitations.

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1. Operating funds may only be invested in instruments authorized in Section 23.06 of this Investment Policy that mature within three hundred ninety-seven (397) days.
2. The City Clerk/Treasurer may invest funds of the City of Primghar that are not identified as operating funds in investments having maturities longer than three hundred ninety-seven (397) days. However, all investments of the City of Primghar shall have maturities that are consistent with the needs and use of the City of Primghar.

### 23.09 DIVERSIFICATION.

Where possible, it is the policy of the City of Primghar to diversify its investment portfolio. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer, or a specific class of securities. In establishing specific diversification strategies, the following general policies and constraints shall apply:

1. Portfolio maturities shall be staggered in a way that avoids undue concentration of assets in a specific maturity sector. Maturities shall be selected which provide stability of income and reasonable liquidity.
2. Liquidity practices to ensure that the next disbursement date and payroll date are covered through maturing investments, marketable U.S. Treasury bills or cash on hand shall be used at all times.
3. Risks of market price volatility shall be controlled through maturity diversification so that aggregate price losses on instruments with maturities approaching one year shall not be greater than coupon interest and investment income received from the balance of the portfolio.

### 23.10 SAFEKEEPING AND CUSTODY.

All invested assets of the City of Primghar involving the use of a public funds custodial agreement, as defined in Code of Iowa Section 12B.10C, shall comply with rules adopted pursuant to Code of Iowa Section 12B.10C. All custodial agreements shall be in writing and shall contain a provision that all investments shall be made in accordance with the laws of the State of Iowa.

All invested assets of the City of Primghar eligible for physical delivery shall be secured by having them held at a third party custodian. All purchased investments shall be held pursuant to a written third party custodial agreement requiring delivery versus payment and compliance with all rules set out elsewhere in Section 23.09.

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### 23.11 ETHICS AND CONFLICT OF INTEREST.

The City Clerk/Treasurer and all officers and employees of the City of Primghar involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

### 23.12 REPORTING.

The City Clerk/Treasurer shall submit monthly an investment report. The investment report shall set out the current portfolio in terms of maturity, rates of return and other features and summarize all investment transactions that have occurred during the reporting period and compare the investment results with the budgetary expectations.

### 23.13 INVESTMENT POLICY REVIEW AND AMENDMENT.

This investment policy shall be reviewed every two years or more frequently as appropriate. Notice of amendments to the investment policy shall be promptly given to all parties noted in Section 23.02.

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### CHAPTER 6: FISCAL MANAGEMENT

#### ARTICLE 24 - ACCOUNTING

- 24.01 BOOKS OF ORIGINAL ENTRY. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
- 24.02 GENERAL LEDGER. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts, and for recording unappropriated surpluses.
- 24.03 CHECKS. Checks shall be prenumbered and signed by the clerk following council approval, except as provided by Section 24.05 hereof.
- 24.04 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)

- 24.05 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.

- 22.06 UTILITIES. The clerk shall perform and be responsible for accounting functions of the municipally-owned utilities.

- 24.07 FEES AND CHARGES. By resolution of the city council, any and all fees and charges referenced in this section may be adjusted from time to time. These fees are listed in Appendix A of the Primghar City Code

- A. Municipal codes
- B. Photocopy of public records
- C. Zoning maps
- D. Subdivision plat sheet
- E. Service charge for checks returned per nonsufficient funds, per check
- F. Record search by public employee (per hour and pro rated)



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### CHAPTER 6: FISCAL MANAGEMENT

#### ARTICLE 25 - FINANCIAL REPORTS

- 25.01 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.
- 25.02 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)

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### CHAPTER 6: FISCAL MANAGEMENT

#### ARTICLE 26 - PURCHASING

26.01 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.

26.02 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.

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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.
- 26.03 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS. Architectural or engineering design services procured for a public improvement are not subject competitive bid requirements.
- 26.04 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.
- 26.05 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.
- 26.06 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 Title I, Section 26.02 of this Code.
  2. The City will adhere to the competitive bid quotation threshold dollar amount set by the State of Iowa Bid Threshold Committee and this dollar amount is subject to annual adjustments by the Committee pursuant to Code of Iowa, section 314.1B.
  3. a. When a competitive quotation is required, the governmental entity shall make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations may be obtained from contractors after the governmental entity provides a description of the work to be performed, including the plans and specifications prepared by an architect or engineer, if required under Code of Iowa, Chapter 542B or 544A, and an opportunity to inspect the work site. The contractor shall include in the quotation the price for labor, materials, equipment, and supplies required to perform the work. If the work can be performed by an employee or employees of the governmental entity, the governmental entity may file a quotation for the work to be performed in the same manner as a contractor.
  - b. The governmental entity shall designate the time, place, and manner for filing quotations, which may be received by mail, facsimile, or electronic mail. The governmental entity shall record the approved quotation in meeting minutes. Quotations approved outside a meeting of the governing body of a governmental

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

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

26.07 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)

Editor's Note: Article 26 - Purchasing was repealed and replaced by Ordinance 2004-13, passed and approved by Council on December 12, 2006.)

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### CHAPTER 7: CITY RECORDS

#### ARTICLE 27 - CUSTODY OF THE CITY'S PUBLIC RECORDS

- 27.01 RECORDS - CUSTODY AND CONFIDENTIALITY RULINGS. In compliance with Chapter 22, Code of Iowa, the officers and employees bearing the titles named herein shall be the custodians custody of the particular records or class of records assigned to the positions named in sections 27.03 this ordinance and are directed to familiarize themselves with the requirements of the law in Chapter 22, 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.
- 27.02 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 himself informed of any amendments or new interpretations and distribute such agenda to the named custodians promptly upon receipt thereof.
- 27.03 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. Plans, profiles, other engineering drawings, field notes. Treasurer's accounts, warrant records, investment records, depository agreements. Water operating records, volume pumped, water quality tests, etc., customer billings if responsible for billing. Waste operating records, volume pumped, water quality tests, etc., customer billings. Sanitation billings, activity, cost records. Electric Utility maps, plans, operating records, tariffs, correspondence, customer billings. Gas Utility maps, plans, operating records, tariffs, customer billings, correspondence.  
\*\* Personnel records including applications, medical exams.
    - b. City Attorney (solicitor).\* Legal opinions, records of legal cases, investigations.

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- c. Fire Chief. Inspection reports, incident records, correspondence, etc.
  - d. Building Inspector. Plans, applications and permits pertaining to the office.
  - e. Cemetery (sexton) (superintendent). Cemetery plats, records of burials, copies, deeds to cemetery lots.
  - f. Librarian. Library circulation and accession lists or records.
  - g. Zoning Administrator. Zoning correspondence, maps, plats, petitions, minutes of board of adjustment.
  - h. 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 and of all records for which no other custodian is designated.

\*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, social security number and years worked are not "personal".

**TITLE II**

**TITLE II PUBLIC SERVICE AND PUBLIC HEALTH**

## TITLE II

### 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 the 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)



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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. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.  
(Code of Iowa, Sec. 455B.361(1))
6. "Rubble" means stone, brick, or similar inorganic material.  
(IAC, 567-100.2)
7. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.  
(IAC, 567-20.2)
8. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.  
(IAC, 567-20.2)
9. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.  
(IAC, 567-100.2)
10. "Discard" means to place, cause to be placed, throw, deposit, or drop.  
(Code of Iowa, Sec. 455B.361(2))
11. "Sanitary Disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.  
(IAC, 567-100.2)
12. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.  
(Code of Iowa, Sec. 455B.301(18))

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13. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.  
(IAC, 567-100.2)
14. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.  
(IAC, 567-20.2)
15. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).
16. "Owner" means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
- 1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.
- 1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
- 1.05 OPEN BURNING. No person shall allow, cause or permit open burning of combustible materials. The following shall be permitted exceptions:  
(IAC, 567-23.2)
1. DISASTER RUBBISH. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.  
(IAC, 567-23.2(3a))
  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))

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3. FLARE STACKS. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the EPC of the IDNR.  
(IAC, 567-23.2(3c))
  4. LANDSCAPE WASTE. The disposal by open burning of landscape waste originating on the premises; however, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.  
(IAC, 567-23.2(3d))
  5. RECREATIONAL FIRES. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the EPC of the IDNR.  
(IAC, 567-23.2(3e))
  6. TRAINING FIRES. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the Executive Director of the EPC of the IDNR receives notice in writing at least one (1) week before such action commences.  
(IAC, 567-23.2(3g))
  7. VARIANCE. Any person wishing to conduct open burning of materials not 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 shall dump or deposit, or permit the open dumping or depositing of, any solid waste except rubble at any place other than a sanitary disposal project approved by 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 dump or deposit, or permit the dumping or depositing of toxic or hazardous wastes except in accordance with the Code of Iowa. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological

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

1. CONTAINER SPECIFICATION.

- a. Residential waste containers shall be made of galvanized metal, rubber, fiberglass, or of plastic which does not become brittle in cold weather. Disposable containers or those approved by the City may be used. They shall have a minimum capacity of not less than five (5) gallons and not more than thirty-two (32) gallons. They shall be of lightweight and sturdy construction, with the total weight of any individual container, fully loaded, not to exceed seventy-five (75) pounds. They shall be of the type manufactured for storage of residential wastes with tapered sides for easy emptying and suitable lifting devices such as handles or bails. They shall be waterproof and leakproof. They shall be fitted with a fly tight lid, which shall remain in place except for the deposit or removal of wastes.

Editor's Note: Ordinance 237, Section 13.28.110(A)(1) was approved on June 20, 2001; establishing maximum capacity and weight of containers.

- b. Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. LOCATION OF CONTAINERS. Residential solid-waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the city to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public-health personnel, and fire-inspection personnel.
3. NONCONFORMING CONTAINERS. Solid waste containers, which are not approved, will be collected together with their contents and disposed of after notice to the owner.

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4. 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 following collection.
  
- 1.10 SANITARY DISPOSAL REQUIRED OF OWNER. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on his 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, Chapter 2 of this Code of Ordinances or by initiating proper action in district court.  
(Code of Iowa, Sec. 657.2)
  
- 1.11 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 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.

## TITLE II

### 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.

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.

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

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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 premises at least once a week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.
- 2.06 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. However, if it exceeds the volume specified in the schedule of fees, the contract collector/transporter shall determine the fair and reasonable amount and shall collect the same.

Editor's Note: Ordinance 237 was approved June 30, 2001. The ordinance established 13.28.080 Bulky Solid Waste, which is now 2.06 of this section.

- 2.07 TREE LIMBS AND BRUSH. Tree limbs of less than four inches in diameter and brush will be collected provided they are placed at the curb or alley line.
- 2.08 YARD WASTES. Yard waste will not be collected.
- 2.09 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.
- 2.10 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his own within the City without first obtaining from the City a 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.

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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 -	\$500,000.00 per person \$500,000.00 per occurrence
Property damage	\$500,000.00

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 established on the date approved.
5. **PAYMENT TO COLLECTOR.** The City shall pay the collector by the month the amount due for that month.
6. **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 him, provided such refuse is disposed of properly in an approved sanitary disposal project.
7. **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.
- 2.11 **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 for the collection and disposal of solid waste as follows:  
(Code of Iowa, Sec. 384.84)
1. **SCHEDULE OF FEES.** Fees for refuse collection and disposal services are established by ordinance. Fees for the collection of solid waste are set forth in



## TITLE II

Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

2. RESIDENTIAL UNIT BASED PRICING. The City will collect from each “residential premises” two (2) containers, as defined in Title II, Chapter 1, Article 1.09(1a), per week for the monthly charge set out in Appendix A. The contents of additional containers will only be collected if the container is marked with an identifying tag that may be purchased from city offices indicating that an additional fee, as provided in Appendix A, has been paid.
3. PAYMENT OF FEES. The fees provided shall be due and payable at the office of the city clerk on or before the tenth (10) day of each month. The provisions of Subparagraphs 4 and 5 below shall be used to enforce collection of delinquent fees.

(Editor’s Note Section 2.11(3) was amended by Ordinance 2005-7 on August 8, 2005)

4. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent, and a payment penalty of one and one-half percent (1.5%) of the amount due shall be added thereto.
  5. LIEN FOR NON-PAYMENT. Fees remaining and delinquent after the due date shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.
  6. PAYMENT TO COLLECTOR. The City shall pay the collector by the month for the amount that is due that month.
- 2.12 DELINQUENT ACCOUNTS. The City may take one or more of the following courses of action if an account for solid waste collection services becomes delinquent by more than twenty (20) 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 twelve (12) 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 shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.

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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 shall notify the City Clerk in writing of his 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.
    - c. 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.
  4. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
  5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.
- 2.13 LIEN FOR DELINQUENT ACCOUNTS. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.  
(Code of Iowa, Sec. 384.84)
- 2.14 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.
- 2.15 DEPOSIT. From time-to-time the Council may by ordinance set a combined utility security deposit fee for utilities. Where the customer pays all amounts for all utilities due at the time of moving out of the city, the full amount of the combined utility security deposit shall be paid to the customer in person or by mail. The deposit(s) is for the following municipal utility services:
1. The Community Agency (TCA)
  2. Water Services

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3. Sewer Services
4. Solid Waste Services
5. Municipal Electricity Services

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### CHAPTER 1: SOLID WASTE CONTROL

#### ARTICLE 3 - SOLID WASTE DISPOSAL

3.01 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 Iowa DNR.

(Code of Iowa, Sec. 455B.307(1))

3.02 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.

3.03 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))

3.04 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.

3.05 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)

## TITLE II

### CHAPTER 2: SANITARY SEWER SYSTEMS

#### ARTICLE 4 - PUBLIC SEWER SYSTEMS

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

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

1. "Sewer System" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this chapter.  
(Code of Iowa, Sec. 455B.171(32))
2. "Sewage" means the water-carried waste derived from ordinary living processes.  
(Code of Iowa, Sec. 455B.171(29))
3. "Public Sewer" means a common sewer which is directly controlled by a public authority.
4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.
5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface and ground water.
6. "Sanitary Sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.
7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.  
(Code of Iowa, Sec. 455B.171(9))
9. "Garbage": shall mean solid wastes from the preparation, cooking and dispersing of food, and from the handling, storage and sale of produce.

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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.

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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
- 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 City Council.  
(Code of Iowa, Chapter 716)
- 4.05 TREATMENT REQUIRED. It is unlawful to discharge to any natural outlet within the city, or in any area under the city's jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.  
(Code of Iowa, Sec. 364.12(3f))
- 4.06 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, he 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.
  2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.

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3. REVOCATION. The Building Inspector 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 established by ordinance. This fee is set forth in Appendix A of the Primghar City Code and is available at the Office of the City Clerk.
- 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.
  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.



## TITLE II

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 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.
- 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 expense in continuously efficient operations at all times.

## TITLE II

- 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, he must pay the costs before he can receive another permit. 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))

## TITLE II

- 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.
  3. FAT OIL, GREASE. Any water or waste which contains more than one hundred (100) parts per million by weight of fat, oil, or grease.
  4. FLAMMABLE MATERIALS. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  5. GARBAGE. Any garbage that has not been properly shredded.
  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.

## TITLE II

11. TOXIC OR POISONOUS SUBSTANCE. Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
12. MATERIALS WHICH REACT WITH WATER OR WASTES. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to sewage structures and treatment processes.
13. SPECIAL AGREEMENTS PERMITTED. No statement in this section shall be construed as preventing any special agreement, arrangement or contract between the council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions as to treatment, rate and cost as established by the council.
14. SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interest of the sewer system.
15. 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.
16. 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.

## TITLE II

17. **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 at the curblineline so that no fresh water may be discharged in to the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his or her approval.
- 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 4.18(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.  
(Code of Iowa, Sec. 364.12(3h))

## TITLE II

### 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, 567-69.3 (3)(a)(1))

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)(c))

## TITLE II

- 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 official capacity.

## TITLE II

### 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 USE OF RATE REVENUE. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance, including replacement, and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement of the treatment works, shall be established by this ordinance.

That portion of the total user charge collected which is designated for operation and maintenance, including replacement, shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund.

Fiscal year-end balances in the operation, maintenance, and replacement fund shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance, and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance, and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

- 6.03 SEWER RATES ESTABLISHED.

1. Each user shall pay for the services provided by the City based on his use of the treatment works as determined by water meter readings or other appropriate methods acceptable to the City.
2. For all users, monthly user charges shall be based on actual water usage, except where a practical method of wastewater measurement is available. If a user has a consumptive use of water, or in some other manner uses water which is not discharged into the wastewater collection system, the user charge for that contributor may be based on readings of a wastewater meter(s) or separate water meter(s) installed and maintained at the user's expense and in a manner acceptable to the City.



## TITLE II

3. For each monthly billing after the publication and effective date of this ordinance, each customer shall be charged a minimum monthly charge. The minimum monthly charge may be prorated, based on a 30-day billing period, for the customer's initial and/or final bills, provided that in no case shall the minimum monthly charge be less than five dollars (\$5.00). The minimum charge for each contributor shall be set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk. In addition, for all water metered beginning with the first cubic foot each month, each user shall pay:
  - a. A capital charge rate for debt retirement as set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

The capital charge may be adjusted to better reflect actual benefit to the contributor.
  - b. A consumption charge rate for operations, maintenance and replacement as set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
4. Any user who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the biosolids from the City's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment work, shall pay for such increased costs. The charge to each such user shall be as determined by the City Clerk.
5. The City will review the user charge system at least every two (2) years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users.

The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance including replacement of the treatment works.

(Editor's Note: Section 6.02 was repealed and replaced with Sections 6.02 and 6.03 by Ordinance #2004-3, November 8, 2004.) Section 6.02A becomes Section 6.03 and all sections following are renumbered sequentially during updating of Code Book in 2009.

- 6.04 **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 6.03 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))

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6.05 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))

6.06 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.

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

6.07 DELINQUENT ACCOUNTS. The City may take one or more of the following courses of action if the account for sanitary sewer service becomes delinquent by more than twenty (20) 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 twelve (12) 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 shall notify the City Clerk in writing of his 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 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 shall notify the City Clerk in writing of his 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.

## TITLE II

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.
4. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

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

(Code of Iowa, Sec. 384.84)

6.09 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.

## TITLE II

### 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 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:

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

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

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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.
- 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.
- 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 water tight.
- 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.
- 7.09 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight type K 3/4" copper meeting I.A.P.M.O. specification IS-14-72, as to prevent rupture from settlement or freezing.

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- 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.
- 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. 4.12 of this Title.
- 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 4.20 of this Title.
- 7.14 SHUTTING OFF & TURNING ON 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, the fee for shutting off the water supply has been paid, and the customer has paid a fee to turn the water supply back on. The fee for turning off the water supply and the fee for turning on the water supply is set by council. Each fee is set forth in Appendix A of the Primghar City Code and is available at the Office of the City Clerk.
- 7.15 POSTING FEE. The fee to post a twenty-four (24) hour notice of discontinuation of water utility services. Fees for posting notices are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
- 7.16 OWNER RESPONSIBLE FOR MAINTENANCE OF WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said service pipe.
- 7.17 FAILURE TO MAINTAIN. When any corporation cock or water service pipe becomes defective and leaks and the owner fails to repair the leak and any damage to street surface

## TITLE II

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(3a & h))

- 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 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.

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 traveled 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.

## TITLE II

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.



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- 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.

## TITLE II

### CHAPTER 3: WATER SERVICE

#### ARTICLE 8 - WATER METERS

- 8.01 METERS REQUIRED. All water furnished customers shall be measured through meters that measure in U.S. gallons furnished and installed by the city.  
(Code of Iowa, Sec. 384.84(1))

Editor's Note: Ordinance # 2002-04 was approved on September 9, 2002 and established that meters "measure in U.S. gallons"

- 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.

## TITLE II

### 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 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. All residential housing complexes, multiple family residential unit complexes, or structures having more than one (example - rental units, townhouses, condominiums) housing unit shall have a individual meter for each residential unit. This means one meter or master meter cannot be used to meter water for all units.

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

9.02 RATES AND SERVICES. Water service shall be furnished at the following monthly rates as established by ordinance and are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

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 a rate established by ordinance of the rates provided in Section 9.02. A copy of the rates for rates outside the city is set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk. 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) & 384.84)

SCHEDULE OF FEES. Fees for water collection and disposal services are established by ordinance. Fees for the collection of solid waste are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

9.04 CUSTOMER DEPOSITS. The deposit for water is included as part of the combined utility security deposit. The amount of deposit is set by ordinance of the Council and is set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

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 from 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.

## TITLE II

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 apply to charges made by the City for repairs to a water service if these repair charges become delinquent.

(Code of Iowa, Sec. 384.84)

- 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 combined utility security 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 for all utilities due at the time of moving out of the city, the full amount of the combined utility security 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.

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 premises 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.

## TITLE II

9.07 BILLING PERIODS FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the following:

1. METERS READ. Water meters shall be read on or about the 3<sup>rd</sup> day of each month.
2. PAYMENT. All water charges are due on the tenth (10) day of each month following the close of the billing month payable by the twelfth (12<sup>th</sup>) day after the close of the billing month day to the city clerk.
3. LATE PAYMENT PENALTY. Charges not paid by the twelfth (12<sup>th</sup>) day after the close of the billing date shall be deemed delinquent and a late penalty as established by ordinance shall be added to the amount of the water fee. Late payment penalty fees are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
4. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

(Editor's Note: Section 9.07(1) & (2) was amended by Ordinance 2004-7 on August 8, 2005)

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

(Code of Iowa, Sec. 384.84)

9.09 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 twenty (20) days:

1. The City may discontinue water service to the property for which the account is delinquent; provided 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 twelve (12) 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 shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.

## TITLE II

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 shall notify the City Clerk in writing of his 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.  
(Code of Iowa, Sec. 384.84)
  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.
  4. An exception to the procedure for certifying liens to the County Treasurer shall be that as described in Section 9.05.
- 9.10 COMBINED SERVICE ACCOUNT. The City may combine charges for water service 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.
- 9.11 SHUTTING OFF WATER. A City authorized person 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. He may likewise shut off the water supply to the customer for violation of or noncompliance with the rules by said customer or for failure of the customer to permit the superintendent, or his 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 the 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 City Council for explanation of the action. The fee for turning off the water supply and the fee for turning on the water supply is set by council. Each

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fee is set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

(Editor's Note: The last two sentences of Section 9.11 were added by Ordinance #2004-4, Nov. 11, 2004)

9.12 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. A city authorized person 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.

9.13 POSTING FEE. The fee to post a twenty-four (24) hour or forty-eight (48) hour notice of discontinuation of water utility services. Fees for posting notices are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

(Editor's Note: Section 9.13 was added by Ordinance #2004-4, Nov. 8, 2004. Section 9.13 was amended by Ordinance 2004-10 on May 24, 2006. Ordinance 2004-10 added "or forty-eight (48) hours")

## TITLE II

### CHAPTER 4: ELECTRIC UTILITY

#### ARTICLE 10 - GENERAL PROVISIONS

- 10.01 PURPOSE. The purpose of this chapter is to provide that the City enter into a certain agreement for membership in the MISSOURI BASIN MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION and a certain agreement to establish THE MISSOURI BASIN MUNICIPAL POWER AGENCY. The purpose of this chapter is also to establish regulations governing the provision of electric service by the Municipal Electric Utility.
- 10.02 AGREEMENTS AUTHORIZED. The mayor is hereby authorized and directed to execute such agreements for, on behalf of and in the name of the City, and the Clerk, and is authorized to affix the seal thereto and attest to such agreements.
- 10.03 APPLICATION. Every person desiring to be supplied with electric current shall make written application therefore to the Clerk.
- 10.04 SERVICE CONNECTIONS. Distribution system shall be applied for service connections only at or near a supporting pole. Such connections shall be made only by the Superintendent or under direction of the Superintendent.
- 10.05 SERVICES - PHASES. The City will normally provide 120/240 volt single phase service. If other secondary voltages are requested, arrangements must be previously agreed upon by the customer and the Utility.
- 10.06 TRANSFORMERS - METERING - APPROVAL.
1. All commercial or industrial users whose load requirements require a separate or individual transformer will have installed demand type meters for computation of service costs and billing. When a customer's metering and load center are designed by an engineering firm, said facilities shall have prior approval by the City before hookup. Residential housing structures with one or more units is not considered commercial for purposes of this Article.
  2. All residential housing complexes, multiple family residential unit complexes, or structures having more than one (example - rental units, townhouses, condominiums) housing unit shall have a individual meter for each residential unit.
- 10.07 RIGHT OF ENTRY - SEAL. The City or Primghar reserves the right for its department personnel, employees, or agents to enter upon the premises of any Electrical Utility customer served hereunder between the hours of 8:00 o'clock a.m. and 5:00 p.m. for the purpose of reading meters, making routine inspections, and for any special or emergency inspection which might be required without advance notice to such user. The City shall seal all meters with an appropriate meter seal and it shall be illegal to break, alter,



## TITLE II

remove, or otherwise tamper with such seal, except under the direct supervision or authority of the Electric Department.

- 10.08 LOAD MANAGEMENT POLICY. The City of Primghar may, from time to time, impose methods for shedding certain specific loads at critical peak load times on the system. The City will offer or develop voluntary or involuntary control of such loads. The City shall hold and exercise the authority, in its discretion, to temporarily discontinue service to control load peaks in such a way as to benefit the overall customer grid and service load. If any proposed limitation of service resulting from load management threatens the smooth and orderly operation of a public, commercial, or industrial user or otherwise adversely effects said user, the City will make every effort to cooperate with said user to arrange an acceptable peak load limitation policy. Load management is a shared responsibility of the Utility and the user. Load Management Incentives are established by ordinance and shall be as stated in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
- 10.09 RATES. The rates for electric service are established by ordinance and shall be as stated in Appendix A of the Primghar City Code and are available at the Office of the City Clerk. These established rates to be charged by the city to users inside and outside the city limits of electric current furnished by the municipal light plant.
- A. RESIDENTIAL RATES
- B. COMMERCIAL LIGHT & POWER RATES
- 10.10 CUSTOMER DEPOSITS. The deposit for electricity service is included as part of the combined utility security deposit. The amount of deposit is set by ordinance of the Council and is set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
- 10.11 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for electricity services is separately metered and paid directly by the tenant, the rental property is exempt from 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 electricity 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.

## TITLE II

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 electricity services charges are paid in full. The lien exemption for rental property does apply to charges made by the City for repairs to a electricity service if these repair charges become delinquent.

(Code of Iowa, Sec. 384.84)

- 10.12 APPLYING DEPOSIT TO A BILL. If a person fails to pay any amount due for electricity, penalty or electricity 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 for all utilities due at the time of moving out of the city, the full amount of the combined utility security 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 electricity shall not be turned on until the deposit is sufficient to meet the requirements under section 10.10 or 10.11 of this ordinance.

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 electricity service at a new premises the past due amount shall be paid and an adequate deposit made before the electricity may be turned on.

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

- 10.13 BILLING PERIODS FOR ELECTRICITY SERVICE. Billing and payment for electricity service shall be in accordance with the following:

1. METERS READ. Electrical meters shall be read on or about the 3<sup>rd</sup> day of each month.

## TITLE II

2. PAYMENT. All electrical charges are due on the tenth (10) day of each month following the close of the billing month payable by the twelfth (12<sup>th</sup>) day after the close of the billing month day to the City Clerk.

(Editor's Note: Section 10.13(1) & (2) was amended by Ordinance 2005-7 on August 8, 2005)

3. LATE PAYMENT PENALTY. Charges not paid by the twelfth (12<sup>th</sup>) day after the close of the billing date shall be deemed delinquent and a late penalty as established by ordinance shall be added to the amount of the electricity fee. Late payment penalty fees are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.
4. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

### 10.14 (RESERVED FOR FUTURE USE)

(Editor's Note: Section 10.14 was repealed by Ordinance #2004-5, November 8, 2004. This section had pertained to "lien for delinquent accounts" and was in conflict with the Iowa Utility Board Policy)

### 10.15 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for electricity service becomes delinquent by more than twenty (20) days:

1. The City may discontinue electricity service to the property for which the account is delinquent; provided 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 twelve (12) 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 shall notify the City Clerk in writing of his 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

## TITLE II

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 shall notify the City Clerk in writing of his 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.  
(Code of Iowa, Sec. 384.84)

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.
4. An exception to the procedure for certifying liens to the County Treasurer shall be that as described in Section 10.11.

10.16 SHUTTING OFF & TURNING ON THE ELECTRICITY SUPPLY. After giving reasonable notice, the superintendent may shut off the supply of electricity 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, the fee for shutting off the electricity supply has been paid, and the customer has paid a fee to turn the electricity supply back on. The fee for turning off the electricity supply and the fee for turning on the electricity supply is set by council. Each fee is set forth in Appendix A of the Primghar City Code and is available at the Office of the City Clerk.

10.17 POSTING FEE. The fee to post a twenty-four (24) hour or forty-eight (48) hour notice of discontinuation of electricity utility services. Fees for posting notices are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

(Editor's Note: Section 10.17 was amended by Ordinance 2004-10 on May 24, 2006, adding "or forty-eight (48) hours".)

10.18 COMBINED SERVICE ACCOUNT. The City may combine charges for electricity service 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.

## TITLE II

### CHAPTER 5: 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)

**TITLE II**

**TITLE III**

**TITLE III PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT**

## TITLE III

### 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)



### TITLE III

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))

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)

### TITLE III

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

(Code of Iowa, Sec. 723.3)

1.08 TEMPORARY CIVIL DISORDER. The following shall apply:

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

1. **DECLARATION**. The mayor may declare a state of civil disorder within the city or its parts if he 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 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.

### TITLE III

- 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 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.
- 1.12 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)

### TITLE III

- (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))

#### 1.13 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.

### TITLE III

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

## TITLE III

### CHAPTER 1 MISDEMEANORS

#### ARTICLE 2 - PUBLIC MORALS

- 2.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public morals and providing for their abatement.
- 2.02 PROSTITUTION. It shall be unlawful for any person to engage in, assist, or in any manner promote prostitution within the City
- 2.03 BLASPHEMOUS OR OBSCENE LANGUAGE. It shall be unlawful for a person to use blasphemous or obscene language publicly, to the disturbance of the public peace and quiet.
- 2.04 INTOXICANTS AND INTOXICATION. The following shall be unlawful:
1. ILLEGAL KEEPING OF INTOXICANTS. To operate, conduct, or allow to be operated a place where intoxicating liquor is illegally kept, sold or given away.
  2. CONSUMPTION IN PUBLIC PLACES. To use or consume any alcoholic liquors and beers upon the public streets or highways, or in any public place, except premises covered by a liquor and beer control license, or to be intoxicated or 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 theatre, concert hall or similar establishment which is primarily devoted to theatrical performances.

## TITLE III

### CHAPTER 1: MISDEMEANORS

#### ARTICLE 3 - MINORS

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

1. "MINOR" shall mean a person less than eighteen (18) years of age.
2. "LEGAL AGE" shall be as set forth in section 123.3(19) and 123.47A of the Code of Iowa.

3.02 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 him by a physician or dentist for medicinal purposes.

(Code of Iowa, Sec. 123.47A)

3.03 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)

## TITLE III

### 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 CONCEALED WEAPONS. It shall be unlawful for any person to do the following, except as provided in this section:

1. PROHIBITION. To go armed with or to carry, a dirk, dagger, sword, pistol, revolver, stiletto, metallic knuckles, pocket billy, sandbag, skull cracker, slug shot or other offensive or dangerous weapon, except hunting knives adapted and carried as such, concealed either on or about the person, except in one's own dwelling, house, place of business, or other land possessed by him. No person shall carry a pistol or revolver concealed on or about his person or whether concealed or otherwise in any vehicle operated by him, except in his dwelling, house, or place of business or on other land possessed by him, without a permit from the sheriff of the county.

2. EXEMPTION. It shall be lawful to carry one or more unloaded pistols or revolvers for the purpose of lawful hunting, lawful sale or attempted sale, lawful exhibit or showing, or other lawful use, if such unloaded weapon or weapons are carried either (1) in the trunk compartment of a vehicle or (2) in a closed container which is too large to be effectively concealed on the person or within the clothing of an individual, and such container may be carried in a vehicle or in any other manner; and no permit shall be required therefore.

(Code of Iowa, Sec. 724.4)

4.03 DISCHARGING WEAPONS. It shall be unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or firearms of any kind within the city limits except by authorization of the council or a peace officer in the line of duty. No person shall intentionally discharge a firearm in a reckless manner.

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

1. DEFINITION. The term "fireworks" shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets,



### TITLE III

roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

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

- |                     |                       |
|---------------------|-----------------------|
| a. Personal injury: | \$ 250,000 per person |
| b. Property damage: | \$ 50,000             |
| c. Total exposure:  | \$ 1,000,000          |

3. OTHER PURPOSES EXEMPT. Nothing in section 4.04 shall be construed to prohibit any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped out of state; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads, 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 sold for medicinal or fumigation purposes.

(Code of Iowa, Sec. 727.2)

#### 4.05 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))

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- 4.06 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 STENCH BOMBS. It shall be unlawful to throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, upon or about any theatre, restaurant, car, structure, place of business or amusement, or any place of public assemblage, or to attempt to do any of these acts, or to prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, prison officials or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this state nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.  
(Code of Iowa, Sec. 724.1)
- 4.08 SPITTING. It shall be unlawful for a person to spit within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.
- 4.09 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.
- 4.10 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or structure, under his or their control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, ice box or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.  
(Iowa Code, Sec. 727.3)
- 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))

### TITLE III

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 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, as it now exist or is hereafter amended.
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 laws of this State. "Drug paraphernalia" 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 under circumstances in violation of the laws of this State.
  - e. **Scales.** Scales and balances used, intended for use, or designed for use in weighting or measuring controlled substances.

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- f. Dilutents. Dilutents 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-driven pipes;

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11. Bongs;
  12. Ice pipes or chillers; or
  13. Chillums;
4. DETERMINING FACTORS. In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:
- 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, as it exists or is hereafter amended.
  - 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 knowledge of any owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows, or reasonably should have known, could use the object to facilitate a violation of this Chapter.
  - 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, as it exist or is hereafter amended, 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.

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- 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 possess 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 laws of this State.
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 laws of this State. The prohibition contained in this Section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, nurses, hospitals, physicians, dentists, veterinarians, pharmacists or embalmers engaged in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties.
7. PENALTIES AND REMEDIES:
- a. Any violation of this Section shall be a simple misdemeanor.
  - b. Any violation of the provisions of this Section shall also constitute a Municipal infraction.
  - c. The City may institute civil proceedings to obtain injunctive and declaratory relief of such other 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 Section.

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- 4.14 URINATION AND DEFECATION. It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, public place or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto public or private land.
- 4.15 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)

## TITLE III

### CHAPTER 1: MISDEMEANORS

#### ARTICLE 5 - PUBLIC PROPERTY

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



### TITLE III

- 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.

## TITLE III

### 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.

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

### TITLE III

- 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.

## TITLE III

### 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.

(Code of Iowa, Sec. 804.12)

7.03 REFUSING TO ASSIST AN OFFICER. . Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.

(Code of Iowa, Sec. 719.2)

7.04 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any policeman, fireman, officer, or city official in the discharge of his duty.

## TITLE III

### CHAPTER 2: NUISANCES

#### ARTICLE 8 - GENERAL PROVISIONS

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

1. "NUISANCE" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
  - (Code of Iowa, Sec. 657.1)
  - a. Offensive smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.  
(Code of Iowa, Sec. 657.2(1))
  - b. Filth or noisome substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.  
(Code of Iowa, Sec. 657.2(2))
  - c. Water pollution. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.  
(Code of Iowa, Sec. 657.2(4))
  - d. Blocking public and private ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landings, places or burying grounds.  
(Code of Iowa, Sec. 657.2(5))
  - e. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.  
(Code of Iowa, Sec. 657.2(7))

### TITLE III

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

### TITLE III

- p. Weeds. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.  
(Code of Iowa sec. 657.2 (13))
- q. Farm Animals & fowl. Except in areas zoned Agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies.
- r. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free standing material makes with the horizontal plane without slipping, sliding or collapse of the material.  
  
This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.
- s. 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.
- t. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans, or containers.
- u. No planting of cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.

- 2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.  
(Code of Iowa, Sec. 364.12(1))

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

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

- 1. REMOVAL OF DISEASED TREES. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.  
(Code of Iowa, Sec. 364.12(3b))

### **TITLE III**

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))



## TITLE III

### CHAPTER 2: NUISANCES

#### ARTICLE 9 - BUILDING MAINTENANCE ORDINANCE

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

### TITLE III

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

### TITLE III

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

1. Weeds or grasses allowed to grow to a height greater than twelve (12) inches on the average, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County Weed Commissioner. This provision shall not apply to prairies, wetlands, or similar areas of naturalized perennial vegetation which are certified by an Enforcement Officer to not constitute a nuisance.
2. Accumulation of refuse to the prejudice of others.
3. Any structure which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any building that is defined as abandoned or a public nuisance by Chapter, 657A, Code of Iowa, 2001 or the City Code of Primghar.
4. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations or solid waste provisions of the City Code of Primghar.
5. Any nuisance as defined herein or described as such to Chapter 657 of the Code of Iowa, or City Code of the City of Primghar.
6. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alternation or modification which substantially concentrates or increases the flow of water onto an adjoining premises.
7. Conditions which are conducive to the harborage or breeding of vermin
8. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
9. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to: safety of buildings, major parts thereof, such as limb, which may be dead or broken or otherwise pose a threat to safety of buildings on adjoining premises; any vegetation located on private property which overhangs and is less than 15 feet above the traveled portion of any public street, or less than seven feet vertically, or which protrudes into any public sidewalk.

### TITLE III

- 9.07 BUILDING MAINTENANCE. Every building shall be maintained to be weather and water tight and free from excessive peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars and crawl spaces shall be free of standing water and hazards. All wood, including floorboard, subfloors, exterior, floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.
- 9.08 VIOLATIONS - ENFORCEMENT. The creation or maintenance of a violation of this ordinance is prohibited and shall constitute a Municipal Infraction as provided in the City Code of Primghar. Each day that a violation is permitted to continue constitutes a separate offense. All inspections, enforcement actions, and hearings on violations, unless expressly stated to be contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officer is hereby authorized to abate such violations in accordance with the Municipal Infraction provisions of the City Code of Primghar and/or with the Procedures of Title III Chapter 2 Article 10 of the Code of Ordinances of the City of Primghar, Nuisance Abatement Procedure, and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a violation, is being maintained, or upon the person or persons causing or maintaining the violation.

## TITLE III

### 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 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, 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.

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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 \$100, the city shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.

(Code of Iowa, Sec. 364.13)

3. The City may collect all associated abatement expenses in a Court of Small Claims.

4. The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.

5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

## TITLE III

### 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 in a motor vehicle open to the extent escape is permitted, or an animal off the premises of its owner, and in either case, not under the control of a competent person, either by leash, cord, chain, wire, rope, cage or other physical restraint of a length not to exceed six feet and of sufficient strength to restrain the animal.
3. "OWNER" shall mean any person owning, keeping, sheltering, or harboring an animal.  
(Code of Iowa, Sec. 351.2)
4. "Dangerous Animal": shall mean
  - (a) any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals, and having known tendencies as a species to do so;
  - (b) any animals declared to be dangerous by the city council or its designee; or
  - (c) the following animals which shall be deemed to be dangerous animals per se:
    - a. wolves and coyotes;
    - b. badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
    - c. bears;
    - d. all apes (including chimpanzees), baboons and macaques;
    - e. monkeys, except the squirrel monkey;
    - f. elephants;
    - g. wild boars;
    - h. black widow spiders and scorpions;
    - i. snakes which are naturally venomous or poisonous;
    - j. all cats, except domestic cats (Carnivora of the family Felidae including, but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, et al.);
    - k. raccoons, opossums and skunks; and
    - l. alligators and crocodiles.

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5. "Dog" shall mean and include members of the canine species, male or female, whether neutered or not.
  6. "Kennel" shall mean any premises on which four (4) or more dogs or four (4) or more cats, six (6) months old or older are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.
  7. "Person" shall mean any individual, association, partnership, or corporation and includes any officer, employee or agency thereof.
  8. "Licensed Dog" shall mean any individual, association, partnership, or corporation and includes any officer, employee or agency thereof.
  9. "Vicious Animal" shall mean any animal, except for a dangerous animal per se as defined above, while running at large that has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities in present or past conduct either by:
    - (a) biting a person or persons on two separate occasions within a twelve (12) month period; or
    - (b) biting once within a twelve (12) month period causing injuries above the shoulders of the person; or
    - (c) being uncontrollable by the owner at the time of the bite to prevent the occurrence; or
    - (d) attacking or biting any domestic animal or fowl on two separate occasions within a twelve (12) month period; or
    - (e) having been found to possess such a propensity by the city council after hearing.
- 11.02 CRUELTY TO ANIMALS. No person shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food or water, or who fails to provide a dog or cat with adequate shelter, or who shall torture, torment, deprive or necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently.  
(Code of Iowa, Sec. 717.2 & 717.3)
- 11.03 EXHIBITIONS AND FIGHTS. No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators.  
(Code of Iowa, Sec. 717.3)



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- 11.04 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the city.
- 11.05 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine and sheep, or other animals which tend to disrupt the peace and good order of the community.
- 11.06 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.
- 11.07 ANNOYANCE OR DISTURBANCE. It shall be unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles, or, to molest or kill wildlife, birds or domestic animals on public or private property.
- 11.08 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the city a vicious animal so defined herein, except as provided in Section 11.09 of this Article.
- 11.09 VICIOUS ANIMAL EXCEPTIONS. The prohibition contained in Section 11.08 of this Article shall not apply to the keeping of vicious animals in the following circumstances:
1. Animals under control of a law enforcement or military agency.
  2. The keeping of guard dogs. However, guard dogs must be kept within a structure of fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 11.10 of this Article. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog", "Vicious Dog", or words of similar import, and the owner of such premises shall inform the O'Brien County Sheriff's Department that a guard dog is on duty at such premises.
- 11.10 IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.
1. Any peace officer or designee, hereinafter officer, in his discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the city council. The person, firm or corporation owning, keeping, sheltering or harboring the animal in question shall be given not less than 72 hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner

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will be required to remove it from the city or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the city council determines that an animal is vicious, the council shall order the person, firm or corporation owning, sheltering, harboring or keeping the animal to remove it from the city, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the officer shall cause the animal to be destroyed.
3. Failure to comply with an order of the council issued pursuant hereto shall constitute a misdemeanor offense.
4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the officer may immediately destroy it or unless its ownership is not ascertainable, in which case the animal control officer may destroy it after three (3) days impoundment.
5. Any animal which is alleged to be vicious and which is under impoundment or quarantine shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the city.

#### 11.11 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the peace officer or other designated official, hereinafter officer, or the O'Brien County Sheriff's Department, be destroyed if it cannot be confined or captured. The City of Primghar shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the signed written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City of Primghar, the officer shall cause the matter to be investigated, and if after

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investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the officer shall order the person named in the complaint to safely remove such animal from the City of Primghar, and permanently place the animal with an organization or group allowed under Section 11.13 of this Article to possess dangerous animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person in which case the officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal issued by the officer may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three (3) days after receipt of the order contained in the notice to remove dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the officer.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After such hearing, the city council may affirm or reverse the order of the officer. Such determination shall be continued in a written decision and shall be filed with the city clerk within three (3) days after the hearing, or any continued session thereof.
5. If the city council affirms the action of the officer, the council shall order in its written decision that the individual or entity owning, sheltering, harboring or keeping such dangerous animal, remove such animal from the city, permanently place such animal with an organization or group allowed under Section 11.13 of this Article to possess dangerous animals or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the officer is not appealed and is not complied with within three (3) days or the order of the city council after appeal is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the city shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under section 11.13 of this Article to possess dangerous animals, or destroy such animal in a humane manner. Failure to comply with an order of the city issued pursuant hereto shall constitute a misdemeanor offense, punishable pursuant to Title I, Section 1.06 of this Code.

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11.12 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a custodian, temporary or otherwise, for such animal, or keep such animal for any other purpose or in any other capacity within the City of Primghar except as provided in Section 11.13 of this Article.

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

11.13 DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 11.12 of this Article shall not apply to the keeping of dangerous animals in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.
2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus carnival exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintenance any and all required federal or state licenses.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Conservation Commission.
5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission, pursuant to Chapters 109 and 109A of the Iowa Code.

11.14 ESCAPE FROM CONFINEMENT. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

11.15 DUTY OF RESTRAINT. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or

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from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor.

- 11.16 INTERFERENCE WITH OFFICIAL ACTS. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the city, so as to hinder, delay, or prevent his executing his duties in relation to the matters and things contained in this chapter.
- 11.17 SANITARY CONDITIONS OF CONFINEMENT. It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house of person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four hours or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and fly-tight containers pending disposal and shall be disposed of at least once weekly. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food consumption in such a manner so that it will not become food for rodents and other vermin.
- 11.18 ABANDONMENT. It is unlawful for any owner or other person to abandon, turn loose or leave any animal within the corporate limits of the city or so that the animal may find its way into the corporate limits of the city, or to abandon or leave any animal upon or in any premises unattended for a period in excess of three (3) days.
- 11.19 SUMMONS ISSUED. Penalties for violation of this article shall be as follows:
1. \$10.00 if there has been no other violation of this ordinance in the one-year period prior to the date of this violation.
  2. \$20.00 if there has been one other violation of this ordinance in the one-year period prior to the date of this violation.
  3. A simple misdemeanor if there have been two other violations of this ordinance in the one-year period prior to the date of this violation.
- 11.20 DISPOSITION OF UNLICENSED DOGS. It shall be lawful for any person, and the duty of all peace officers within their jurisdiction, to kill any dog for which a license is required when such dog is not wearing a collar with license tag attached.  
(Code of Iowa, Sec. 351.26)
- 11.21 DISPOSAL OF OTHER ANIMALS. If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities, such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

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11.22 DOGS HABITUALLY AT LARGE. It shall be unlawful for any person to keep within the City any dog for which the owner has been fined three times within a twelve (12) month period under Title III, Chapter 3, Article 11 and/or Article 12.

11.23 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.

11.24 IMPOUNDMENT. Whenever impoundment or quarantine of an animal is required under this chapter, such impoundment or quarantine shall be with an organization or group as defined in Section 11.13 which may also specifically include any clinic, shelter, pound, or office however designated which is operated by or under the direction of any licensed veterinarian.

## TITLE III

### CHAPTER 3: ANIMAL CONTROL AND PROTECTION

#### ARTICLE 12 - REGULATION AND LICENSING OF DOGS

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

1. "DOG" shall mean both male and female animals of the canine species whether altered or not.
2. "OWNER" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.

12.02 LICENSE. A city council may provide for the issuance of licenses for dogs. If the council should require licenses for dogs, then such licenses shall be obtained from the city clerk. The council may set a license fee to be paid to the city clerk. Any license issued by the city clerk shall be in the form of a license tag bearing a license number and the year issued, and shall be fastened to a collar or harness which shall be worn by the dog for which the license was issued.

12.03 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

12.04 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.

12.05 AT LARGE PROHIBITED. No owner of any dog shall permit such dog to run at large, whether the dog be licensed or unlicensed.

12.06 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.

12.07 IMPOUNDING. Any licensed, unlicensed, or unvaccinated dog found at large shall be seized and impounded, or the owner may be served a summons to appear before a proper court to answer charges made.

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12.08 DOGS NOT CLAIMED. Any impounded dogs, whether licensed or unlicensed, not claimed within seven (7) days after notice shall be disposed of in a humane manner in accordance with the law.

(Code of Iowa, Sec. 351.37)

12.09 MAXIMUM NUMBER OF DOGS. A dog or canine is considered full-grown at the age of twelve (12) weeks of age. The numerical number of dogs kept on any residential premise shall be limited to two (2) full grown domesticated dogs. Once a dog reaches twelve (12) weeks of age, it is considered full grown and the dog counts toward the maximum number of dogs that can be kept on a residential premise.



**TITLE III**

**CHAPTER 3: ANIMAL CONTROL AND PROTECTION**

**ARTICLE 13 - (Reserved for Future Use)**

## TITLE III

### CHAPTER 4: WEEDS

#### ARTICLE 14 – GENERAL PROVISIONS

- 14.01 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.
- 14.02 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.
- 14.03 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.
- 14.04 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 14.05 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.
- 14.05 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”).

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

#### 14.06 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.

14.07 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 9 of this Code of Ordinances.

## TITLE III

### CHAPTER 5: MUNICIPAL INFRACTIONS

#### ARTICLE 15 - MUNICIPAL INFRACTIONS

##### 15.01 DEFINITIONS.

1. Municipal Infraction: Any violation of the City Code of Primghar, 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 Primghar, Iowa.
3. Repeat Offense: Any recurring violation of the same section of the ordinances or the City Code of Primghar, Iowa.

(Code of Iowa Sec. 364.22)

##### 15.02 PENALTIES.

1. A municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:
  - a. First Offense - \$50.00
  - b. Second Offense - \$100.00
  - c. Third and Subsequent Offenses - \$200.00

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. 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)

(Editor's Note: Section 15.02 Penalties was amended by Ordinance 2004-12, passed and approved on December 12, 2006.)

## TITLE III

### 15.03 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 56.1, 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 60 and subject to the conditions of Iowa Rule of Civil Procedure 60.1.
3. A copy of the citation shall be retained by the issuing officer, and one 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.

(Code of Iowa, Sec. 364.22)

**TITLE III**

**TITLE IV**

**TITLE IV - TRAFFIC AND STREETS**

## TITLE IV

### 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. "PARK" OR "PARKING" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
3. "STOP" shall mean when required, the complete cessation of movement.
4. "STOP" OR "STOPPING" shall mean, when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
5. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets: Shall mean the territory contiguous to and including a highway when fifty (50) percent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied buildings in use for business.
6. "RESIDENCE DISTRICT" shall mean the territory contiguous to and including a highway, not comprising a business, suburban, or school district, where forty percent or more of the frontage on such highway for a distance of three hundred feet or more is occupied by dwellings or by dwellings and buildings in use for business.
7. "SCHOOL DISTRICT" shall means the territory contiguous to and including a highway for a distance of two hundred feet in either direction from a schoolhouse in a city.
8. "SUBURBAN DISTRICT" means all other parts of a city not included in the business, school, or residence districts.
9. "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.



## TITLE IV

(Code of Iowa, Sec. 321.1 (50))

10. "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))

11. "VEHICLE" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

(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 O'Brien County Sheriff's 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 peace officers and shall be subject to the provisions of the Code of Iowa.

(Code of Iowa, Sec. 321.271)

2. INVESTIGATION. The O'Brien County Sheriff's Department shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.

3. STUDIES. Whenever the accidents at any particular location become numerous, the O'Brien County Sheriff's Department shall conduct studies of such accidents and propose remedial measures.

1.04 FILES MAINTAINED. The O'Brien County Sheriff's Department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three year period. Such reports shall be filed alphabetically under the name of the driver concerned.

1.05 ANNUAL SAFETY REPORTS. The O'Brien County Sheriff's Department may 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.

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- 1.06 HABITUAL TRAFFIC VIOLATORS. The Iowa Department of Transportation 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, 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 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)
- 1.09 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.

## TITLE IV

### 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 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.180 – Instruction permits.
13. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
14. Section 321.193 – Restricted licenses.
15. Section 321.194 – Special minor’s licenses.
16. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
17. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

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18. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
19. Section 321.219 – Permitting unauthorized minor to drive.
20. Section 321.220 – Permitting unauthorized person to drive.
21. Section 321.221 – Employing unlicensed chauffeur.
22. Section 321.222 – Renting motor vehicle to another.
23. Section 321.223 – License inspected.
24. Section 321.224 – Record kept.
25. Section 321.232 – Radar jamming devices; penalty.
26. Section 321.234A – All-terrain vehicles.
27. Section 321.235A – Electric personal assistive mobility devices.
28. Section 321.247 – Golf cart operation on City streets.
29. Section 321.257 – Official traffic control signal.
30. Section 321.259 – Unauthorized signs, signals or markings.
31. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
32. Section 321.262 – Damage to vehicle.
33. Section 321.263 – Information and aid.
34. Section 321.264 – Striking unattended vehicle.
35. Section 321.265 – Striking fixtures upon a highway.
36. Section 321.275 – Operation of motorcycles and motorized bicycles.
37. Section 321.278 – Drag racing prohibited.
38. Section 321.284 – Open containers in motor vehicles – drivers.
39. Section 321.284A – Open containers in motor vehicles – passengers.
40. Section 321.288 – Control of vehicle; reduced speed.

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41. Section 321.295 – Limitation on bridge or elevated structures.
42. Section 321.297 – Driving on right-hand side of roadways; exceptions.
43. Section 321.298 – Meeting and turning to right.
44. Section 321.299 – Overtaking a vehicle.
45. Section 321.302 – Overtaking and otherwise.
46. Section 321.303 – Limitations on overtaking on the left.
47. Section 321.304 – Prohibited passing.
48. Section 321.306 – Roadways laned for traffic.
49. Section 321.307 – Following too closely.
50. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
51. Section 321.309 – Towing; convoys; drawbars.
52. Section 321.310 – Towing four-wheel trailers.
53. Section 321.312 – Turning on curve or crest of grade.
54. Section 321.313 – Starting parked vehicle.
55. Section 321.314 – When signal required.
56. Section 321.315 – Signal continuous.
57. Section 321.316 – Stopping.
58. Section 321.317 – Signals by hand and arm or signal device.
59. Section 321.319 – Entering intersections from different highways.
60. Section 321.320 – Left turns; yielding.
61. Section 321.321 – Entering through highways.
62. Section 321.322 – Vehicles entering stop or yield intersection.
63. Section 321.323 – Moving vehicle backward on highway.

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64. Section 321.323A – Approaching certain stationary vehicles.
65. Section 321.324 – Operation on approach of emergency vehicles.
66. Section 321.324A – Funeral processions.
67. Section 321.327 – Yield to pedestrians in crosswalks.
68. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
69. Section 321.330 – Use of crosswalks.
70. Section 321.332 – White canes restricted to blind persons.
71. Section 321.333 – Duty of drivers.
72. Section 321.340 – Driving through safety zone.
73. Section 321.341 – Obedience to signal of train.
74. Section 321.342 – Stop at certain railroad crossings; posting warning.
75. Section 321.343 – Certain vehicles must stop.
76. Section 321.344 – Heavy equipment at crossing.
77. Section 321.344B – Immediate safety threat; penalty.
78. Section 321.354 – Stopping on traveled way.
79. Section 321.359 – Moving other vehicle.
80. Section 321.362 – Unattended motor vehicle.
81. Section 321.363 – Obstruction to driver’s view.
82. Section 321.364 – Preventing contamination of food by hazardous material.
83. Section 321.365 – Coasting prohibited.
84. Section 321.367 – Following fire apparatus.
85. Section 321.368 – Crossing fire hose.
86. Section 321.369 – Putting debris on highway.

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87. Section 321.370 – Removing injurious material.
88. Section 321.371 – Clearing up wrecks.
89. Section 321.372 – School buses.
90. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
91. Section 321.381A – Operation of low-speed vehicles.
92. Section 321.382 – Upgrade pulls; minimum speed.
93. Section 321.383 – Exceptions; slow vehicles identified.
94. Section 321.384 – When lighted lamps required.
95. Section 321.385 – Head lamps on motor vehicles.
96. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
97. Section 321.387 – Rear lamps.
98. Section 321.388 – Illuminating plates.
99. Section 321.389 – Reflector requirement.
100. Section 321.390 – Reflector requirements.
101. Section 321.392 – Clearance and identification lights.
102. Section 321.393 – Color and mounting.
103. Section 321.394 – Lamp or flag on projecting load.
104. Section 321.395 – Lamps on parked vehicles.
105. Section 321.398 – Lamps on other vehicles and equipment.
106. Section 321.401A – Light-restricting devices prohibited.
107. Section 321.402 – Spot lamps.
108. Section 321.403 – Auxiliary driving lamps.
109. Section 321.404 – Signal lamps and signal devices.
110. Section 321.404A – Light-restricting devices prohibited.

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- 111. Section 321.405 – Self-illumination.
- 112. Section 321.406 – Cowl lamps.
  
- 113. Section 321.408 – Back-up lamps.
  
- 114. Section 321.409 – Mandatory lighting equipment.
  
- 115. Section 321.415 – Required usage of lighting devices.
  
- 116. Section 321.417 – Single-beam road-lighting equipment.
  
- 117. Section 321.418 – Alternate road-lighting equipment.
  
- 118. Section 321.419 – Number of driving lamps required or permitted.
  
- 119. Section 321.420 – Number of lamps lighted.
  
- 120. Section 321.421 – Special restrictions on lamps.
  
- 121. Section 321.422 – Red light in front.
  
- 122. Section 321.423 – Flashing lights.
  
- 123. Section 321.430 – Brake, hitch and control requirements.
  
- 124. Section 321.431 – Performance ability.
  
- 125. Section 321.432 – Horns and warning devices.
  
- 126. Section 321.433 – Sirens, whistles and bells prohibited.
  
- 127. Section 321.434 – Bicycle sirens or whistles.
  
- 128. Section 321.436 – Mufflers, prevention of noise.
  
- 129. Section 321.437 – Mirrors.
  
- 130. Section 321.438 – Windshields and windows.
  
- 131. Section 321.439 – Windshield wipers.
  
- 132. Section 321.440 – Restrictions as to tire equipment.
  
- 133. Section 321.441 – Metal tires prohibited.



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- 134. Section 321.442 – Projections on wheels.
  - 135. Section 321.444 – Safety glass.
  - 136. Section 321.445 – Safety belts and safety harnesses; use required.
  - 137. Section 321.446 – Child restraint devices.
  - 138. Section 321.449 – Motor carrier safety regulations.
  - 139. Section 321.450 – Hazardous materials transportation.
  - 140. Section 321.454 – Width of vehicles.
  - 141. Section 321.455 – Projecting loads on passenger vehicles.
  - 142. Section 321.456 – Height of vehicles; permits.
  - 143. Section 321.457 – Maximum length.
  - 144. Section 321.458 – Loading beyond front.
  - 145. Section 321.460 – Spilling loads on highways.
  - 146. Section 321.461 – Trailers and towed vehicles.
  - 147. Section 321.462 – Drawbars and safety chains.
  - 148. Section 321.463 – Maximum gross weight.
  - 149. Section 321.465 – Weighing vehicles and removal of excess.
  - 150. Section 321.466 – Increased loading capacity; re-registration.
- 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 himself 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

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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 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)

2.07 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)

2.08 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.

2.09 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.

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### 2.10 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))

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- 2.11 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Title II Chapter 2 of this Code of Ordinances.
- 2.12 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.
- 2.13 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:  
(Code of Iowa, Sec. 321.277A)
1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
  2. Simulating a temporary race.
  3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
  4. Causing the vehicle to unnecessarily turn abruptly or sway.

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#### 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 him 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 SPECIAL SPEED ZONES. A speed in excess of the limits set out miles per hour shall be unlawful on any of the following designated streets or parts thereof:
- A. SPECIAL 55 MPH SPEED ZONES. A speed in excess of fifty-five (55) miles per hour shall be unlawful on any of the following designated streets or parts thereof.

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1. Vehicles traveling north or south on McCormack Avenue from Fifth Street NW to Cemetery Road.
- B. SPECIAL 45 MPH SPEED ZONES. A speed in excess of forty-five (45) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
1. Vehicles traveling north or south on Rerick Avenue, also known as U.S. Highway 59, from Cemetery Road to Eight Street NW.
- C. SPECIAL 35 MPH SPEED ZONES . A speed in excess of thirty-five (35) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
1. Vehicles traveling east or west on Third Street SW, also known as County Highway B40, from the entrance of the City's Swimming Pool to the Airport Bridge.
  2. Vehicles traveling north or south on Rerick Avenue, also known as U.S. Highway 59, from Eight Street SW to the City Corporate Limits.
- 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 mayor may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(Code of Iowa, Sec. 321.311 & 321.255)

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

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

(Code of Iowa, Sec. 321.315)

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

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

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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))



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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 curbs 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 theatre, 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. IN MORE THAN ONE SPACE. In any designated parking place so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such spaces.
19. RAMPS. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.  
(Code of Iowa, Sec. 321.358(15))
20. 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

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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 right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

5.03 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. No part of any vehicle, or the load thereon, when parked within an angle parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Hayes Avenue from 1<sup>st</sup> Street SE to 1<sup>st</sup> Street NE
2. Green Avenue from 1<sup>st</sup> Street SW to 1<sup>st</sup> Street NW
3. 1<sup>st</sup> Street from S. Hayes Avenue to S. Green Avenue
4. 1<sup>st</sup> Street from N. Hayes Avenue to N. Green Avenue

5.06 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 city council to erect or cause to be

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erected appropriate signs giving notice, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal. When the 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))

- 5.08 SCHOOL LOADING ZONE. No person, except drivers of authorized school buses, shall park a vehicle in any of the following designated locations between the hours of 8:00 a.m. and 4:00 p.m. on school days.

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

- 5.09 TRUCK PARKING LIMITED. Trucks weighing five (5 ) tons or more, loaded or empty, shall not be parked at the following locations on the streets names:

All streets lying adjacent to the O'Brien county Courthouse. No person shall stop or park any commercially licensed vehicle or combination of vehicles having a total overall length of more than twenty-two feet (22') or a total overall width of more than eighty inches (80") upon any street in the areas zoned as "A" or "B" Districts, or in front of any resident home, or on the traveled portion of any street in the City between the hours of eight o'clock (8:00) P.M. and eight o'clock (8:00) A.M., except for loading or unloading purposes, unless such stop is rendered necessary because of traffic conditions, direction of peace officers, and/or traffic control devices.

(Editor's Note: Ordinance 206 was passed and approved on May 2, 1994 and now is Section 5.09)

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

- 5.11 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 market place or when so authorized or licensed under the city code.

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5. STORAGE. Storage or as junk or dead storage for more than forty-eight (48) hours.
- 5.12 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.
- 5.13 IMPROPER USE. The following uses of a handicapped parking space, located on either public or private property, constitutes improper use of a handicapped parking permit, which is a violation of this Code of Ordinances:  
(Code of Iowa, Sec. 321.4L.4(2))
- a. Use by motor vehicle not displaying a handicapped parking permit;
  - b. Use by a motor vehicle displaying a handicapped parking 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 Code of Iowa);
  - c. Use by a motor in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
- 5.14 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or city-owned off street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. This provision shall not apply to motor vehicles parked immediately adjacent to the place of employment of the operator thereof and said operator is engaged in his/her employment.

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#### ARTICLE 6 - STOP AND YIELD

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

(Code of Iowa, 321.322(1))

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

(Code of Iowa, Sec. 321.345)

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

1. Westbound Second Street, NE at Heritage Park Road
2. Westbound Second Street, NE at Welch Avenue
3. Westbound Second Street, NE at North Rerick Avenue
4. Eastbound Second Street, NE at Welch Avenue
5. Eastbound Second Street, NE at Heritage Park Road
6. Westbound Eighth Street, NE at North Rerick Avenue
7. Westbound Seventh Street, NE at North Rerick Avenue
8. Westbound Sixth Street, NE at North Rerick Avenue
9. Westbound Fifth Street, NE at North Rerick Avenue
10. Westbound Fourth Street, NE at North Rerick Avenue
11. Westbound Third Street, NE at North Rerick Avenue
12. Westbound Second Street, NE at North Rerick Avenue
13. Westbound First Street, NE at North Rerick Avenue
14. Westbound County Road B40 at U.S. Highway 59
15. Westbound Fifth Street, SE at U.S. Highway 59
16. Westbound Fifth Street, SE at U.S. Highway 59
17. Westbound Sixth Street, SE at U.S. Highway 59
18. Eastbound Eighth Street, NW at Highway 59
19. Eastbound Sixth Street, NW at North Rerick Avenue
20. Eastbound Fifth Street, NW at North Rerick Avenue
21. Eastbound Fourth Street, NW at North Rerick Avenue
22. Eastbound Third Street, NW at North Rerick Avenue

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23. Eastbound Second Street, NW at North Rerick Avenue
24. Eastbound First Street, NE at South Rerick Avenue
25. Eastbound First Street, SE at South Rerick Avenue
26. Eastbound Second Street, SE at South Rerick Avenue
27. Eastbound Third Street, SE at U.S. Highway 59
28. Eastbound Fourth Street, SE at U.S. Highway 59
29. Eastbound Fifth Street, SE at U.S. Highway 59
30. Eastbound Sixth Street, SE at U.S. Highway 59
31. Westbound Third Street, NW at North Green Avenue
32. Eastbound Third Street, NW at North Hayes Avenue
33. Westbound Second Street, SE at South Hayes Avenue
34. Westbound Second Street, NW at North Hayes Avenue
35. Westbound Second Street, SE at South Green Avenue
36. Westbound Second Street, SW at South Green Avenue
37. Southbound North Hayes Avenue at First Street, NW
38. Southbound South Hayes Avenue at Third Street, SE
39. Southbound South Green Avenue at Third Street, SW
40. Northbound South Green Avenue at Third Street, SW
41. Northbound South Green Avenue at First Street, SW
42. Eastbound First Street, SW at South Green Avenue
43. Eastbound Second Street, SW at South Green Avenue
44. Westbound First Street, SW at South McCormack Avenue
45. Westbound First Street, SE at South Hayes Avenue
46. Northbound South McCormack Avenue at Third Street, SW
47. Southbound South McCormack Avenue at Third Street, SW
48. Southbound South Inman Avenue at Third Street, SW
49. Westbound city alley located between First Street, SW and
50. Second Street, SW at South Green Avenue
51. Eastbound Second Street SE at South Hayes Avenue
52. Eastbound First Street SW at South McCormack Avenue
53. Eastbound Third Street NW at North Green Avenue
54. Westbound Third Street NE at North Hayes Avenue
55. Southbound on North Green Avenue at Third Street NW
56. Southbound on North Hayes Avenue at Third Street NE

(Editor's Note: Subsections 51-56 were added by Ordinance 2004-14, passed and approved by Council on December 12, 2006).

- 6.04 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating.

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6.05 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area, and thereafter he shall proceed into the sidewalk area only when he can do so without danger to pedestrian traffic and he shall yield the right of way to any vehicular traffic on the street into which his vehicle is entering.

(Code of Iowa, Sec. 321.353)

6.06 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his 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 he shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

6.07 VEHICLES ENTERING YIELD INTERSECTION. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

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

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

1. Southbound on Metcalf Avenue at Second Street, NE

(Editor's Note: Section 6.08(1) was added by Ordinance 2004-14, passed and approved by Council on December 12, 2006).

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

(Code of Iowa, Sec. 321.327)

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#### ARTICLE 7 - ONE WAY STREETS

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

"None"

- 7.02 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT. The mayor 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 mayor 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"



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### CHAPTER 1: TRAFFIC CODE

#### ARTICLE 8 - TRAFFIC CONTROL DEVICES

- 8.01 INSTALLATION. The mayor 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. He 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 mayor 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 mayor 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.  
(Code of Iowa, Sec. 321.255)
- 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."

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### 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 city council 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 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, or parts thereof, within the city and none other:
  - a. First Street NW from McCormack Avenue to Pumphreys Avenue.
  - b. First Street SW from McCormack Avenue to Roberts Avenue.
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)

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### CHAPTER 1: TRAFFIC CODE

#### ARTICLE 10 - PEDESTRIANS

- 10.01 HITCH HIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.  
(Code of Iowa, Sec. 321.331)

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### CHAPTER 1: STREETS AND ALLEYS

#### ARTICLE 11 - SNOW REMOVAL AND STREET CLEANING

- 11.01 WINTER PARKING. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or city-owned off parking area during from 2:00 a.m. to 6:00 a.m. from November 1<sup>st</sup> to April 1<sup>st</sup>. This section is exempt to law enforcement employees parking at 240 1<sup>st</sup> Street NE on the south side of the street. This provision shall also not apply to motor vehicles parked immediately adjacent to the place of employment of the operator thereof and said operator is engaged in his/her employment.
- 11.02 ENFORCEMENT. The O'Brien County Sheriff's Department shall be responsible for the enforcement of said special parking restrictions when they are in effect.
- 11.03 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 below.
1. **FIRST VIOLATION**. For the first violation of any provision of this chapter, the penalty shall be twenty-five dollars (\$25.00) providing much penalty is paid within 30 days of date upon which violation occurred.
  2. **SECOND VIOLATION**. For any second violation, within twenty-four (24) hours of the first violation, the penalty shall be the sum of twenty-five dollars (\$25.00) if paid within thirty days upon which violation occurred.
  3. **SUBSEQUENT VIOLATIONS**. For any subsequent violation within any twenty-four (24) hour period, the penalty shall be not be less than twenty-five dollars \$25.00.

(Code of Iowa, Sec. 321.236)

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### CHAPTER 1: TRAFFIC CODE

#### ARTICLE 12 - ENFORCEMENT

12.01 ARREST OR CITATION. Whenever a peace 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 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 clerk of district court.

1. HANDICAP PARKING VIOLATIONS. The penalty for violating the handicap parking provisions in Section 5.13 of this Chapter shall be one-hundred dollars (\$100.00).
2. OTHER PARKING VIOLATIONS OF THIS CHAPTER UNLESS OTHERWISE NOTED.
  - a. FIRST VIOLATION. For the first violation of a parking provision of this chapter, the penalty shall be fifteen dollars (\$15.00). The fine shall be increased to twenty dollars (\$20.00) if not paid within thirty (30) days of the date upon which the violation occurred.
  - b. SECOND VIOLATION. For any second violation, within twenty-four (24) hours of the first violation, the penalty shall be the sum of fifteen dollars (\$15.00) if paid within thirty days upon which violation occurred. The fine shall be increased to twenty dollars (\$20.00) if not paid within thirty (30) days of the date upon which the violation occurred.
  - c. SUBSEQUENT VIOLATIONS. For any subsequent violation within any twenty-four (24) hour period, the penalty shall be not less than fifteen dollars \$15.00. The fine shall be increased to a minimum of twenty dollars (\$20.00) if not paid within thirty (30) days of the date upon which the violation occurred.

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

(Editor's Note: Section 12.02(2) was repealed and replaced by Ordinance 2004-14, passed and approved by Council on December 12, 2006).

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- 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 peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the city, under the circumstances hereinafter enumerated:
1. **DISABLED VEHICLE.** When a vehicle is 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 he shall be given an opportunity to remove the vehicle.  
(Code of Iowa, Sec. 321.236(1))
  4. **COSTS.** In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.  
(Code of Iowa, Sec. 321.236(1))

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### 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. 716.6)
- 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. 716.6)
- 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

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and further agrees to comply with 29 CFR 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 - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City. 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.



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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))

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- 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 City Council 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 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 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting 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.
- 13.12 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.
- 13.13 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.
- 13.14 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the costs of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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### CHAPTER 2: STREETS AND ALLEYS

#### ARTICLE 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 City 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. 409.17)

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 Primghar.

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. 592.7)

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### 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))

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### 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.

(Editor's Note: Curb Grades were established or re-established by Ordinance 220, passed and approved on August 5, 1996)

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### 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 PERMIT. A written permit shall be obtained from zoning officer before any person shall construct or repair a driveway.

1. APPLICATION. A written application for the permit shall be filed with the city clerk. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the proposed plan of construction or repair which shall include the depth, width, and type of surfacing material to be used. No other plan shall be followed except by written permission of the board of adjustments who may allow amendments to the application or permit which do not conflict with this article.
2. ISSUANCE. The city clerk shall issue the permit, bearing his signature and the date of issuance, if the proposed plan meets all of the requirements of this article, if the fee required under this article has been paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect.
3. FEE. The applicant shall pay a fee of \$2.00 per \$1,000.00 value of the project, with a minimum fee of \$10.00 and a maximum fee of \$500.00. However, there is a flat fee of \$10.00 for a sidewalk.
4. EXPIRATION. Each permit shall expire within two (2) years under the condition the project starts within six (6) months from the date of issuance, if not constructed within that time.
5. REVOCATION. The city clerk may at any time revoke the permit for any violation of this article and may require that the work be stopped.

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- 17.03 PERMIT REQUIRED. No curb shall be cut or changed and no parking or public property shall be used for a driveway or parking without first obtaining a permit therefore from the city. No such permit shall be granted until the permit has been approved by an authorized officer and unless application therefore conforms to this division and to all other ordinances of the city.
- 17.04 WHERE APPLICABLE. The provisions of this article shall be applicable to all future driveways into filling stations, parking lots, drive-in service, or other businesses which are used by customers or the public in general, and residential homes; and to all existing drives from and after May 1, 2004.
- 17.05 PLAN FILED. Before any permit required by this article shall be granted, the applicant therefore shall file with the authorized city officer a plat and plan of the area to be improved which plan shall be drawn accurately to scale of not less than one-eighth (1/8) inch to one (1) foot, and with all principal driveways shown.
- 17.06 RELOCATION OF UTILITIES. Wherever there may be encountered in the street or parking, any cables, service poles, water mains, valve or curb stop boxes, manholes, drain inlets, or other utilities, the applicant for the permit required shall obtain the written permission of an authorized city officer for any change necessary therein and the reasonable expenses and cost of all such changes shall be paid by the applicant.
- 17.07 LIMITATION ON NUMBER, SIZE, WIDTH AND LOCATION OF DRIVEWAYS. There shall be not more than two (2) driveways on any one (1) street frontage of one hundred fifty (150) feet or less, nor more than three (3) driveways for any one (1) street frontage of over one hundred fifty (150) feet, for any gasoline filling stations, parking lot, drive-in-service, or other business which invites the use of the driveway by its customers or members of the public generally. No driveway for any such business shall be less than twenty (20) feet, nor more than twenty-five (25) feet in width measured at the curb. Where there are two (2) or three (3) driveways on one (1) street frontage, there shall be a safety zone between such driveways of not less than ten (10) feet measured at the property line. No more than one (1) driveway per street frontage shall be allowed for a residence except as approved by the council where circumstances and safety justify. No residential drive shall be less than twelve (12) feet wide at the property line, or more than twenty-five (25) feet wide at the property line, or more than twenty-five (25) feet between the outer points of the curb.
- In no event shall the curb for a driveway be cut except in front of the property for which the driveway is to be used and no driveway shall be within five (5) feet of any intersection. sidewalk or crosswalk at the property line.
- 17.08 DRIVEWAYS IN RESIDENTIAL DISTRICTS TO BE PAVED. All driveways in the residential districts of the city shall be paved from gutter to walk, with Portland cement concrete.

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- 17.09 SIDEWALK INCORPORATED INTO DRIVEWAY. No driveway which is part of the public walk shall have a longitudinal slope greater than one-half (1/2) inch per foot, and no grade of walk shall be changed so as to make the walk less than six (6) inches above the adjacent gutter. The surface of such walk shall be of a rough finish so as to prevent slipping.
- 17.10 CURBING REQUIRED. Except for the street access driveway permitted in this article, wherever the property adjoining a public sidewalk is used for a driveway paralleling the sidewalk or for parking of vehicles adjacent to the walk, there shall be installed upon the property six (6) inches inside the property line, a reinforced concrete curbing at least six (6) inches high and six (6) inches wide, so as to prevent the driving or stopping of vehicles upon the sidewalk.
- 17.11 CURBING ALONG DRIVEWAYS. Driveways shall be bounded on each side by a tapered curb with a face varying from the established height of the curb to zero, prior to meeting the sidewalk.
- 17.12 CUTTING OF CURBS. Existing curb shall either be removed at the nearest joint of cut with a concrete saw when constructing a driveway.
- 17.13 END OF DRIVE DEFINED. Driveways shall end at the curb line.
- 17.13 SIDEWALK GRADES Sidewalk grades will not be changed except as provided herein.
- 17.15 EXCAVATION, TRENCHING, AND BACKFILLING. Excavation, trenching and backfilling for service pipes from the public water or sewer main to the street property line, shall be in accordance with the requirements of the state plumbing code, except as hereinafter provided.
- 17.16 SAFETY BARRICADING. All excavations in streets shall be dug so as to occasion the least possible inconvenience to the public and to provide for passage of water along the gutter. All such excavations shall be properly barricaded at all times and warning lights shall be placed from one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise.
- 17.17 EXCAVATION AND TRENCHING. The trench walls shall be as nearly vertical as possible. Where soil conditions normally prevent this, sheeting, shoring, and bracing shall be used to kneed the walls vertical and the width of the trench as narrow as practicable. Under all paved areas, including sidewalks and drives, the pavement and its base shall be removed by neatly cutting with saws or jack hammers so that the width



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and length of the pavement and base removed is two (2) feet wider and longer than the trench width and length.

- 17.18 BACKFILLING. The trench shall not be backfilled until the city has inspected and approved the service pipe installations. Upon approval, selected backfill material, at the proper moisture content, shall be placed around the pipe in six (6) inch lifts and thoroughly compacted with approved mechanical tampers until the top of the pipe is covered with eighteen (18) inches of compacted dirt. No frozen material, except approved fill gravel, will be permitted for backfill trenches. The remainder of the backfill material, free from boulders larger than six (6) inches, wood, or organic material, shall be placed in uniform layers of not more than twelve (12) inches thickness and thoroughly compacted with approved mechanical tampers until the trench has been filled to the bottom of the pavement base. The base shall be replaced to its full length, width, and thickness with Portland cement concrete having a twenty-eight (28) day compressive strength of not less than three thousand (3,000) pounds per square inch. The pavement surface, where one existed prior to the opening of the trench shall be replaced with Iowa Department of Transportation Type A or Type B asphaltic concrete or Portland cement concrete to the city's satisfaction. The plumber must maintain the affected area in good repair to the satisfaction of the city council for one year after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the city.
- 17.19 COMPLETION BY 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 municipal water system, or sewer service pipe connected with the sanitary sewer system, or should the work be improperly done, the city shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, he must pay the costs before he can receive another permit, and the plumber's bond 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.
- 17.20 CASH BOND FOR CUTTING PAVEMENT. Before a permit shall be granted for any work which involves the cutting of street pavement whether it be asphaltic concrete or Portland cement concrete, the applicant shall give to the clerk a cash bond of fifty (50) dollars. If replacement of the street as provided for in the next succeeding section is completed to the city's satisfaction, said cash bond shall be returned to the applicant. If such replacement does not meet the city's approval, the cash bond provided for herein shall be forfeited to the city in addition to any other penalties, fines or fees provided for in this article.

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- 17.21 EXCAVATIONS NEAR STREETS. No person shall make any excavation in any street, alley or public place or within ten (10) feet of any sidewalk, street, alley, or public place and not secure the excavation by an enclosure at least four (4) feet high, substantially built and with warning lights placed and burning during the entire night.
- 17.22 REMOVING EARTH. No person shall remove or cause to be removed any dirt, sand, stone, rock, tree, shrub, plank, sidewalk or fence from any street, alley, highway, lot or ground belonging to the municipality without permission from the council.
- 17.23 RESTORING EXCAVATIONS OF STREET CUTS. No person shall dig into, or in any manner break any sidewalk, curb, pavement, street, alley, or public ground without placing the same in as good condition as found.
- 17.24 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.
- 17.25 RECORDS MAINTAINED. The clerk shall maintain a record of all established grades and furnish information concerning grades upon request.
- 17.26 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the superintendent of public works within thirty (30) days after completion of the work. The superintendent of public works shall keep a record of such approvals in his office. If he refuses to approve the work, it must be corrected immediately so that it will meet with his approval. If the work has been done improperly, the superintendent of public works 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.
- 17.27 RULES. The council may provide by resolution such further rules as necessary to clarify and implement the requirements of this article.

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### CHAPTER 2: STREETS AND ALLEYS

#### ARTICLE 18 - BUILDING NUMBERING

18.01 BUILDINGS TO BE NUMBERED. All principal buildings now present or hereafter erected within the city limits shall have an assigned number. The owner(s) shall cause the numbers to be placed and maintained on his/her/their property as provided herein.

##### A. Definitions.

1. "Principal buildings" shall mean the main building on any lot or contiguous lots.
2. "Owner" shall mean the owner(s) of the principal building. B. Owner requirements.

##### B. Owner Requirements

1. Obtaining building number: The owner(s) shall obtain the assigned number to his/her/their principal building from the city clerk.
2. Display of building number: The owner(s) shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place facing the street, said assigned number in figures not less than four (4) inches in height and of a contrasting color with their background.  
(Code of Iowa, Section 364.12(3)(d))

18.02 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the city council. The system consists of three-digit numbering. The odd numbers shall be on the west and south sides of all streets, and the even numbers shall be on the east and north sides of all streets.

18.03 MANDATORY NUMBERING. The placing of numbers is mandatory and will become effective pursuant to its final passage, approval and publication as provided by law.

18.04 ENFORCEMENT. If numbers meeting the requirements of this ordinance have not been placed on each building, the city shall cause individual written notice to be given to the owner(s) of the principal buildings not numbered to require compliance within a reasonable time set forth in the notice, and if not completed by such time the city shall cause proper numbers to be installed and the cost of the installation billed to such owner(s).

(Editor's Note: Ordinance 02-07 was approved and passed, establishing "Numbering of Buildings" and is now Article 18 - Building Numbering of this Chapter).

## TITLE IV

### CHAPTER 3: SIDEWALKS

#### ARTICLE 19 - SIDEWALK REGULATIONS

19.01 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.

19.02 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 traveled portion of the public street.

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

19.03 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

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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)

- 19.04 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 him 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))

- 19.04 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)

- 19.05 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.

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- 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)

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

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

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- 19.07 ENCROACHING STEPS. It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.
- 19.08 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.
- 19.09 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. Whenever snow or ice shall be allowed to remain upon any sidewalk of the city for a period of twenty-four hours, the mayor, or whomever he/she may designate, shall have the right to remove the same, and the cost thereof shall be assessed, as provided by law, against the property abutting the sidewalk. The costs to be assessed shall be the actual cost of labor, material and serving of notices, plus twenty-five percent to compensate for the cost of supervision and administration.  
(Code of Iowa, Sec. 364.12(2b,e))
- 19.10 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.
- 19.11 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.
- 19.12 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.
- 19.13 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.  
(Code of Iowa, Sec. 364.12(2))
- 19.14 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

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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.

- 19.15 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.
- 19.16 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.
- 19.17 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It shall be the responsibility of the abutting property owners to promptly remove from the sidewalks natural accumulations of snow and ice ( including ice formed from water flowing onto the walk and freezing). In the City of Primghar Commercial Districts as defined in the City of Primghar 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 twenty-four (24) 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.
- 19.18 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.



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### CHAPTER 4: SNOWMOBILES & ATV'S

#### ARTICLE 20 - GENERAL PROVISIONS

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

1. "ALL-TERRAIN VEHICLE" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

Two-wheeled off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled off-road motorcycle is exempt from the safety instruction and certification program requirements of sections 321G.23 and 321G.24 Code of Iowa.

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

2. SNOWMOBILE" "*Snowmobile*" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "*Snowmobile*" does not include an all-terrain vehicle, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

3. "OPERATOR" shall mean a person who operates or is in actual physical control of an all-terrain vehicle or snowmobile.

(Code of Iowa, Sec. 321G.1(11))

4. "OPERATE" shall mean to ride in or on, other than as a passenger, use, or control the operation of an all-terrain vehicle or snowmobile in any manner, whether or not the all-terrain vehicle is moving.

(Code of Iowa, Sec. 321G.1(10))

5. "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.

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6. "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.
7. "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.

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

20.03 HOURS OF OPERATION. No person shall operate a snowmobile or ATV on public or private property within the city between the hours of 12:00 a.m. and 6:00 a.m. except when responding to an emergency.

20.04 AGE OF OPERATION. Minors under twelve. An owner or operator of a snowmobile shall not permit a person under twelve years of age to operate and a person less than twelve years of age shall not operate, a snowmobile except when accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid driver's license, as defined in section 321.1, or a safety certificate issued under this chapter.

A person under twelve years of age shall not operate an all-terrain vehicle on public lands unless the person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor and a parent or guardian.

(Code of Iowa, Sec 321G.20)

20.05 OPERATION OF SNOWMOBILE OR ATV. A snowmobile or ATV 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. 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.

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

2. TRAILS. On trails in city parks or on other public property which is specially designated by the city council and which is marked by appropriate signs giving notice that snowmobiles may be operated in the area.

3. 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.

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4. PUBLIC AREAS PROVIDED FOR SNOWMOBILES AND/OR ATV'S. On other public areas or streets specifically provided by the council by resolution of the Council.
- 20.06 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 two 2 inches shall be deemed adequate.
- 20.07 CROSSING OF STREET. A snowmobile or ATV 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.
- 20.08 REQUIRED EQUIPMENT. All snowmobiles or ATV's operated within the city shall have the following equipment:
1. MUFFLER. An effective and suitable muffling device that reduces the noise of operation of a snowmobile manufactured before July 1, 1973, to not more than 86 decibels, those manufactured before July 1, 1975 that limits engine noise to 82 decibels, and those manufactured since July 1, 1975, that limits engine noise to not more than 78 decibels, as provided by State law.  
(Code of Iowa, Sec. 321G.11)
  2. Every all-terrain vehicle operated during the hours of darkness shall display a lighted head lamp and tail lamp. Every snowmobile shall be equipped with at least one head lamp and one tail lamp. Every all-terrain vehicle and snowmobile shall be equipped with brakes.  
(Code of Iowa, Sec. 321G.12)
  3. BRAKES. Brakes which conform to standards prescribed by the commissioner of public safety.

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4. SAFETY THROTTLE. A safety or "dead man" throttle in operating condition.  
20.09 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(c))
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 20.08 of this Article.  
(Code of Iowa, Sec. 321G.13(d))
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(e))
6. FIREARMS. A person shall not operate or ride in an all-terrain vehicle or snowmobile with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a nonambulatory person may carry an uncased and unloaded firearm while operating or riding an all-terrain vehicle or a snowmobile.  
(Code of Iowa, Sec. 321G.13(2))
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 immediate family.
8. WITHOUT INSURANCE. Without having in force at time of operation, a policy of insurance affording coverage for the operation of a snowmobile against liability imposed by law for bodily injury or death and for property damage. The minimum limits of coverage required of an owner shall be \$50,000 for one person who is injured or killed in any one accident and \$100,000 for two or more persons who are injured or killed in one accident. For property damage, the minimum coverage shall be \$10,000. If requested by a peace officer (or other designated

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city official or employee), an owner or operator of a snowmobile shall present proof within 24 hours that a policy of insurance is currently in force.

8. **UNATTENDED VEHICLE.** It is unlawful for the owner or operator to leave or allow a snowmobile or ATV to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.
  9. **CARRYING A PASSENGER.** A person shall not operate an all-terrain vehicle while carrying a passenger  
(Code of Iowa, Sec. 321G.13(3))
- 20.10 **TOWING.** No item shall be towed by a snowmobile or ATV unless coupled to said snowmobile or ATV by a rigid tow bar.
- 20.11 **SINGLE FILE.** Snowmobiles and ATV's shall, only when permitted on the traveled 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.

## TITLE IV

### CHAPTER 5: GOLF CARTS

#### ARTICLE 21 - GENERAL PROVISIONS

21.01 DEFINITION. For use in this chapter, the following term is defined:

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

21.02 OPERATION ON CITY STREETS PERMITTED. It shall be permissible for persons possessing a valid motor vehicle license to operate a golf cart on the streets of this city subject to the following restrictions:

- A. The operator shall only be allowed to operate the golf cart on city streets by taking the most direct route to and from the storage location and the municipal golf course.
- B. Golf carts shall not be operated upon a city street which is a primary road extension through the city but shall be allowed to cross a city street which is a primary road extension through the city.
- C. Golf carts shall only be permitted to operate on the streets of this city from sunrise to sunset.

21.03 EQUIPMENT REQUIREMENTS. Operators of golf carts intending to operate said golf carts on the streets of this city shall equip said golf carts with the following:

- A. A slow mowing vehicle sign;
- B. A bicycle safety flag; and,
- C. Brakes adequate to meet reasonable safety standards.

**TITLE V**

**TITLE V - BUSINESS, OCCUPATIONS, AND BUILDING REGULATIONS**

## TITLE V

### 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(12))
    - a. Has such financial standing and good reputation as will satisfy the commission and the administrator that he will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his 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 conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his rights of citizenship have been restored by the Governor, the administrator may determine that he 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



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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 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(29))
3. "Commercial establishment" shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the ordinances of the city.  
(Code of Iowa, Sec. 123.3(30))
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. 123.129)
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. 123.129)
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(32))
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(3))
9. "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.  
(Code of Iowa, Sec. 123.3(2))

1.03 LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

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### 1.04 PERSONS UNDER LEGAL AGE

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

(Code of Iowa, Sec. 123.47 (1))

2. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for 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 under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine or beer from any licensee or permittee.

(Code of Iowa, Sec. 124.49 (3))

- 1.05 PUBLIC CONSUMPTION OR INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).

(Code of Iowa, Sec. 123.46)

- 1.06 OPEN CONTAINERS IN A MOTOR VEHICLE. Any person driving a motor vehicle or a passenger in a motor vehicle shall not knowingly possess in the motor vehicle upon a public street or highway any open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage or beer with the intent to consume the alcoholic beverage or beer upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove department, utility compartment, console, unlocked portable device, or within the driver or passenger area of the motor vehicle while it is upon a public street or highway is evidence from which the court or a jury may infer that the driver or passenger intended to consume the alcoholic beverage or beer while upon the public street or highway.

(Code of Iowa, Sec. 321.284)

## TITLE V

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

(Code of Iowa, Sec. 123.46(2))

## TITLE V

### CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

#### ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

- 2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and state law.  
(Code of Iowa, Sec. 123.2)
- 2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his 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 & 123.129)
- 2.04 WINE PERMITS - CLASSES. Wine permits shall be classed as follows:
1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.  
(Code of Iowa, 123.173 & 123.177)
  2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.  
(Code of Iowa, 123.173 & 123.177)

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### 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"

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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))

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3. ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS. No interior access or residential or sleeping quarters is permitted or maintained unless permission is granted by the administrator in the form of a living quarters permit.  
(Code of Iowa, Sec. 123.30(2))
  4. LOCATION OF PREMISES. The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.  
(Code of Iowa, Sec 123.128(1b))
  5. SEATING CAPACITY. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.  
(Code of Iowa, Sec. 123.128(1b))
  6. CONFORM TO APPLICABLE LAWS. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.  
(Code of Iowa, Sec. 123.30(2) & 123.127(2))
- 2.09 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.  
(Code of Iowa, Sec. 123.92)
- 2.10 SEPARATE LOCATIONS. Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.  
(Code of Iowa, Sec. 123.140)
- 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 a person authorized by the City Council 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 a City Council authorized person 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))

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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))
5. 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



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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. 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. 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(9))
  
- 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(10))
  
- 2.14 SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law.  
(Code of Iowa, Sec. 123.34(1))
  
- 2.15 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the division for such further action as is provided by law.  
(Code of Iowa, Sec. 123.32(2))

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2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.  
(Code of Iowa, Sec. 123.34(1))

2.17 REFUNDS. Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

1. **BEFORE THREE MONTH PERIOD**. If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
2. **SIX MONTH PERIOD**. If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee.
3. **SIX - NINE MONTH PERIOD**. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
4. **AFTER NINE MONTH PERIOD**. No refund shall be made, however, for a liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
5. **SUNDAY SALES**. No refund will be given on the Sunday Sales portion of a license or permit fee.
6. **COMPLAINT FILED**. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him with a violation of this chapter or provisions of the Iowa beer and liquor control act.
7. **HEARING ON COMPLAINT**. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing he shall not be eligible for the refund of any portion of his license or permit fee.
8. **SEASONAL LICENSES OR PERMITS**. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, Sec. 123.38)

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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 twenty-five dollars \$25.00.

(Code of Iowa, Sec. 123.38)

2.19 SIMPLIFIED APPLICATION FOR RENEWAL. Upon receipt of an application for the renewal of a liquor license or beer permit, it shall be forwarded to the person authorized by the City Council, who shall verify that the qualifications have not changed from the original application, and give a recommendation to the council as to the approval of the license or permit.

(Code of Iowa, Sec. 123.35)

2.20 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 liquor or beer on the premises covered by the license or permit, or permit the consumption thereon, between the hours of two a.m. and six a.m. on any weekday and between the hours of two a.m. and noon on Sunday and ten p.m. on Sunday and six 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))

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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 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. BEER BRAND SIGNS PROHIBITED. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.  
(Code of Iowa, Sec. 123.51)
9. NUDE CONDUCT PROHIBITED. Cause, permit, procure, counsel or assist any person who is acting as a waiter, waitress, host, hostess, dancer, or entertainer on the licensed premises to:
  - a. Expose his or her genitals, pubic hair, buttocks, perineum, anus region, or pubic hair region; or
  - b. Expose or wear any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anus region, or pubic hair region; or
  - c. Expose any portion of the female breast at or below the nipple thereof; or
  - d. Allows or permits any person to remain in or upon the place of business who exposes to public view the person's genitals, pubic hair, or anus.
  - e. Advertises that any activity prohibited by this section is allowed or permitted in such place of business.
  - e. If such person allows or permits a minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

For purposes of this subsection a person shall be deemed a waiter, waitress, host, hostess, dancer, or entertainer if such person acts in that capacity without regard to

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whether such person is paid any compensation by the liquor control licensee or beer permittee, his agent or employee.

The provisions of this section shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

(Code of Iowa, Sec. 728.5)

2.21 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the council for any of the following causes:

(Code of Iowa, Sec. 123.39)

1. **MISREPRESENTATION.** Misrepresentation of any material fact in the application for such license or permit.  
(Code of Iowa, Sec. 123.39(1))
2. **VIOLATIONS.** Violations of any of the provisions of the Iowa beer and liquor control act.  
(Code of Iowa, Sec. 123.39(2))
3. **CHANGE IN OWNERSHIP.** Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.  
(Code of Iowa, Sec. 123.39(3))
4. **ORIGINAL DISQUALIFICATIONS.** Any event which would have resulted in disqualification from receiving such license or permit when originally issued.  
(Code of Iowa, Sec. 123.39(4))
5. **SALE OR TRANSFER.** Any sale, hypothecation or transfer of such license or permit.  
(Code of Iowa, Sec. 123.39(5))
6. **PAYMENT OF TAXES.** The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.  
(Code of Iowa, Sec. 123.39(6))

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7. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.20 shall, subject to section 2.22, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

2.22 **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 2.20(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. 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 dollars.

(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 dollars.

(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.

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- (3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.  
(Code of Iowa, Sec. 123.50(3e))
  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 upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.
- 2.23 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(4&5))
- 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 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 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.

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2. HEARING. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. RIGHTS OF PERMIT HOLDER. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross-examine adverse witnesses.
4. EVIDENCE. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. CRIMINAL CHARGES. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. RECORD AND DETERMINATION. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.



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### CHAPTER 2: CIGARETTE PERMITS

#### ARTICLE 3 - GENERAL PROVISIONS

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

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. 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. No retailer shall sell, distribute, or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(Code of Iowa, Sec. 453A.13(1&10))

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 City 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

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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

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 place of business, the council, if it decides to issue a new permit to him, 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))

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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))

1. Permits surrendered during: (For cities under 15,000 population)	Amount of refund:
July, August, or September	\$56.25
October, November, or December	\$37.50
January, February, or March	\$18.75

3.09 REVOCATION. The council, after notice and hearing, shall revoke a permit if it finds the retailer has substantially violated the provisions of this chapter or the Code of Iowa, or if grounds exist that would be sufficient for refusal to issue such a permit. The clerk shall give ten (10) days written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his application for a permit. The notice shall state the reason for the contemplated revocation and the time and place at which he may appear and be heard. The hearing shall be held at the regular meeting place of the council.

(Code of Iowa, 453A.22(1))

3.10 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violates the provisions of 3.12 of this Chapter, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.
- b. For a second violation within a period of two years, the retailer's permit shall be suspended for a period of thirty days.
- c. For a third violation within a period of three years, the retailer's permit shall be suspended for a period of sixty days.
- d. For a fourth violation within a period of three 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))

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- 3.11 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))
- 3.12 PERSONS UNDER THE LEGAL AGE. No person shall sell, give or otherwise supply tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine.  
(Code of Iowa, Sec. 453A.2 & 453A.36(6))

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### 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 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 FEES AND DURATION. The fee and duration of a license shall be:
1. ANNUAL OR DAILY LICENSE. An applicant may apply for an annual or a daily license. The annual license shall be valid for one year after the date on which it is issued. The daily license shall be valid for only one twenty-four (24) hour period, but the applicant may apply for and receive 7 daily licenses at one

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time. However, no daily license shall be issued more than 10 days before the date for which the license is valid.

2. FEE. The fees for licenses shall be set forth in Appendix A of the Primghar City Code.

4.08 POWER TO INSPECT AND INVESTIGATE. Upon receipt of an application for a license, the city clerk shall forward it immediately to an agent of the City, 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, the building inspector 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 REVOCAION OF LICENSE. After giving a licensee three (3) 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 application for the license or in the conduct of his business.
2. VIOLATION OF CHAPTER. The licensee has violated this chapter or has otherwise conducted his 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 shall endorse his 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.

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- 4.12 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.
- 4.13 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.
- 4.14 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. However, the application for license shall state all persons authorized to conduct business on behalf of the prospective licensee.

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### 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 case.

5.02 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 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 or his 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 mayor or his appointee. The mayor 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.

5.03 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



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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 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.

### 5.04 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.

### 5.05 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

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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 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 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.

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### 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:

- a. Newspaper boys and girls
- b. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America, and similar organizations.
- c. Farmers who offer for sale products of their own raising.
- d. Students representing or conducting projects sponsored by organizations recognized by the schools of Primghar.
- e. Milk delivery men who incidentally solicit additional business or make special sales.

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 - 6.14 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 efforts and the amount thereof. If the city clerk shall find that the organization is a bona fide charity or religious organization he shall issue, free of charge, a license containing the information designated in this section to the applicant.

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- 6.05 LICENSE 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 \$20.00 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 \$500.00 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 thirty (30) days from the expiration of each license.
- 6.07 FEES. Every licensee shall pay a fee before a license shall be issued (List of fees can be found in Appendix A of the Primghar City Code.
- 6.08 DISPLAY. Each solicitor or peddler shall at all times while doing business in this city keep in his possession the license provided for in this article, and shall, upon the request of prospective customers, exhibit the license as evidence that he has complied with all requirements of this chapter. Each transient merchant shall display publicly his license in his 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 REVOCAION OF LICENSE. After giving a licensee three (3) 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 application for the license or in the conduct of his business.
  2. VIOLATION OF CHAPTER. The licensee has violated this chapter or has otherwise conducted his 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.

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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.

- 6.11 EXPIRATION. All licenses granted under this chapter shall expire at 9:00 p.m. of the last day for which the license is issued.
- 6.12 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 sells a product or service and, comply with the other requirements of the law.
- 6.13 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. However, the application for license shall state all persons authorized to conduct business on behalf of the prospective licensee.
- 6.14 HOURS OF OPERATION. All peddlers, transient merchants and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight (8:00) a.m. and eight (8:00) p.m.

**TITLE V**

CHAPTER 4: RESTAURANTS

ARTICLE 7 - GENERAL PROVISIONS

Reserved For Future Use.

**TITLE VI**

**TITLE VI - BUILDING REGULATIONS**

## TITLE VI

### CHAPTER 1: BUILDING CODE

#### ARTICLE 1 - GENERAL PROVISIONS

- 1.01 BUILDING OFFICIAL. The building official shall be responsible for the enforcement of this ordinance. The council may either appoint a person to be the building official or designate some other officer to carry out the duties of the building official.
- 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, as specified in this ordinance, the city building code or any other ordinance, are, for the purpose of this ordinance, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in sections 1.03, 1.04, 1.05 and 1.06 below.

"Unsafe building" shall mean any structure or mobile home meeting any or all the following criteria:

1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 20 lb. per sq. ft.
3. Whenever any portion thereof has 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.
4. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
5. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.



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6. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
  7. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
  8. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
  9. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
  10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the State Fire Marshall or city fire chief to be a fire hazard.
  11. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
  12. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- 1.03 NOTICE TO OWNER. The building official shall examine, or cause to be examined, every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this ordinance, the building official shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the building official. If necessary, such notice shall also require the building, structure, or portion thereof to be

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vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the building official.

Such notice shall be served in the manner provided for service of original notice of the Iowa Rules of Civil Procedure upon the owner of record, if he shall be found within the city limits. If he is not found within the city limits, such service may be made upon said owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the building official shall begin as of the date he receives such notice. However, such notice shall, except in cases of immediate danger, state that the person notified may request a hearing before the council concerning the determination that the building be repaired, removed or demolished, and such request shall be made at least 3 days before the deadline set in the notice if less than 15 days was set, and at least 10 days if over 21 days was set.

- 1.04 POSTING OF SIGNS. The building official shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. Building Department, City of Primghar." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed except for the purposes of making the required repairs or of demolishing the building.
- 1.05 RIGHT TO DEMOLISH. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the city council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the building official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council.
- 1.06 COSTS. Costs incurred under Section 1.06 above shall be paid out of the city treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be collected in the manner provided for taxes in Section 364.12(3)(h), Code of Iowa.

## TITLE VI

### 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:
- Second Street SW to Second Street SE and north to Second Street NW and Second Street NE and from South McCormack Avenue and North McCormack Avenue east to Albright Avenue.
- 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

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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 appraisal 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.

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### CHAPTER 3: TREES

#### ARTICLE 3 - GENERAL PROVISIONS

3.01 DEFINITIONS. For use in this chapter, the following term is defined:

1. "Parking" means that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line, or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

3.02 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. 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-five (25) feet to street intersections (property lines extended) and ten (10) feet to driveways. Trees planted in the parking shall not be of a fruit bearing species, nor be of an evergreen species or any other species that may interfere with the travel on streets.
  - 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.

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2. 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.

- 3.03 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))

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- 3.04 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.  
(Code of Iowa, Sec. 364.12(2c))
- 3.05 TRIMMING TREES TO BE SUPERVISED. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the city.
- 3.06 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him to do so within five (5) days. If he 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))

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### CHAPTER 3: TREES

#### ARTICLE 4 - DUTCH ELM DISEASE CONTROL

- 4.01 TREES SUBJECT TO REMOVAL. The council having determined that the health of the elm trees within the city is threatened by a fatal disease known as the Dutch elm disease hereby declares the following shall be removed:
1. LIVING OR STANDING TREES. Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles, that is scolytus multistriatus (eichb.) or hylurgopinus rufipes (marsh.).
  2. DEAD TREES. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has not be removed and burned or sprayed with an effective elm bark beetle destroying insecticide.
- 4.02 DUTY TO REMOVE. No person, firm or corporation shall permit any tree or material infected with Dutch elm disease to remain on the premises owned, controlled or occupied by him within the city.  
(Code of Iowa, Sec, 364.12(3b))
- 4.03 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 4.01 of this ordinance exists thereon, and shall also inspect or cause to be inspected any elm trees reported or suspected to be infected with the Dutch elm disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.
- 4.04 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 elm trees within the city is imminent, he shall immediately cause it 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 Dutch elm disease or the insect pests or vectors known to carry such disease fungus.
- 4.05 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 the danger to other elm trees within the city is imminent, he shall immediately notify by certified mail the occupant or person in charge of such property, to correct such condition within 14 days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt thereof, the council may cause the



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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))

- 4.06 REASONABLE CERTAINTY. If the city is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with Dutch elm disease, a city representative is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

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### CHAPTER 4: ABANDONED AND JUNKED VEHICLES AND MACHINERY

#### ARTICLE 5 - ABANDONED VEHICLES

5.01 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(1b))
  - 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))

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5.02 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 vehicle on private property with the consent of the property owner. 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))

5.03 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))

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- 5.04 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 5.03. 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 5.03.  
(Code of Iowa, Sec. 321.89(3b))
- 5.05 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))
- 5.06 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay a fee as set by resolution of the council if vehicle claimed within five (5) days of impounding, plus an amount as set by resolution of the council 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))
- 5.07 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))
- 5.08 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])
- 5.09 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

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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 the Department of Transportation.

(Code of Iowa, Sec. 321.89(4))

- 5.10 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))

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### CHAPTER 4: ABANDONED AND JUNKED VEHICLES AND MACHINERY

#### ARTICLE 6 - JUNKED VEHICLES AND MACHINERY

##### 6.01 DEFINITIONS.

1. 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, machinery or appliance; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.
2. VEHICLE. "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, or any combination thereof.
3. For use in this article, the term "Junk Motor Vehicle" or "Junk Machinery" shall mean any motor vehicle or piece of machinery stored within the corporate limits of the city, not licensed for the current year as required by any law, or which because of any one of the following characteristics, constitutes a threat to the public health and safety:
  - A. BROKEN GLASS. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. BROKEN OR LOOSE PART. Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe or decorative piece.
  - C. DEFECTIVE OR OBSOLETE CONDITION. Any other vehicle 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.
  - D. FLAMMABLE FUEL. Any vehicle or machinery which contains gasoline or any other flammable fuel.
  - E. HABITAT FOR NUISANCE ANIMALS OR INSECTS. Any vehicle or piece of machinery which has become the habitat for rats, mice, or any other vermin or insects.

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- F. OPERABLE (“ROAD-READY”). Any vehicle not in safe condition or road ready for use on any roadways meaning any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
- G. UNINSURED. Any vehicle not insured and having proof of financial liability coverage.
- H. UNLICENSED. Any vehicle not licensed for the current year as required by any law.
- I. WHEELS AND TIRES. Any vehicle that lacks functional and usable wheels and tires.

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

6.02 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.

6.03 JUNKED VEHICLES AND MACHINERY A NUISANCE. It is hereby declared that any junk or junk vehicle or junk machinery located upon private property, unless excepted by section 6.04 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 a 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))

6.04 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. To a vehicle on the premises of a business enterprise operated in a district properly zoned therefore, when necessary to the operation of said business enterprise, as authorized under the zoning ordinance of the City.

6.05 NOTICE TO ABATE. Upon discovery of any junk, junk motor vehicle or junk machinery stored upon private property in violation of Article 6.02 or Article 6.03, the O’Brien County Sheriff’s Department may within five (5) days initiate abatement procedures.

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1. Seeking abatement proceedings as authorized in Section 6.05 of this Chapter does not preclude the City from seeking alternative relief from a Court in the same action. Such alternative relief may include, but is not limited to, issuing a municipal infraction or injunctive relief from a court.



## TITLE VI

### CHAPTER 5: FIRE PREVENTION CODE AND FIRE FIGHTING

#### ARTICLE 7 - GENERAL PROVISIONS

- 7.01 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.
- 7.02 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 himself 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.
- 7.03 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.
- 7.04 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

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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.

### 7.05 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.

### 7.06 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.

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- 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 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.

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- 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.
- 7.07 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 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.
- 7.08 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.
- 7.09 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.
- 7.10 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his duty at, or going to, or returning from a fire, or while attending to his duties as a member of the fire department.
- 7.11 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.

## TITLE VI

- 7.12 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.
- 7.13 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.
- 7.14 ASSISTING FIREMEN. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in his place.
- 7.15 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.
- 7.16 FIRE SERVICE FEES AND CHARGES. The purpose of fire department fees and charges is to fix fees and charges for fire service. Fire service will be furnished to the residents of Primghar and the surrounding areas. Fees and charges for fire services will be established by ordinance. The Fire Chief and City Clerk are hereby directed to issue invoices for such fire services, and to collect such fees on behalf of the City of Primghar and to deposit such fees in the City fire department fund, which shall be used to purchase equipment, training, other services and supplies for the Primghar Fire Department. Fees and charges fire services are set forth in Appendix A of the Primghar City Code and are available at the Office of the City Clerk.

(Editor's Note: Section 7.16 was added by Ordinance 2004-11 on May 24, 2006.)

**TITLE VI**

**TITLE VII**

**TITLE VII - COMMUNITY DEVELOPMENT**

## TITLE VII

### CHAPTER 1 - FRANCHISES

#### ARTICLE I – BLACK HILLS ENERGY

An Ordinance granting Black Hills Energy, its successors and assigns, a natural gas franchise and the authority to construct, operate, maintain, and extend a natural gas distribution plant and system, and granting the right to use the streets, alleys, and other public places within the present or future corporate limits of the City of Primghar, Iowa

Be it ordained by the City Council of the City of Primghar, Iowa, as follows:

##### **FRANCHISE GRANTED**

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

##### **TERM – PERIODIC REVIEW**

The rights and privileges granted by this Ordinance shall remain in effect for a period of twenty-five (25) years from the effective date of this Ordinance hereof subject to cancellation at the end of the twelfth (12<sup>th</sup>) year. Grantor, through its Clerk, shall notify Grantee in writing at least one hundred and eighty (180) days before the expiration of the initial term, that Grantor, desires not to renew the franchise.

##### **GOVERNING RULES AND REGULATIONS**

This Ordinance is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the



## TITLE VII

Grantee, the terms of this franchise Ordinance shall take precedence over any conflicting terms or requirements contained in any other Ordinance enacted by the Grantor.

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

### **CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES**

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

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

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities. City agrees that it will not solicit or otherwise hire employees, officers, or Directors of Grantee without prior notice and approval of the Grantee.

### **EXTENSION OF COMPANY FACILITIES**

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

### **RELOCATION OF COMPANY FACILITIES**

If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the Grantor, at the cost and expense of Grantee. If Grantor orders or requests Grantee to relocate its facilities or

## TITLE VII

equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee.

Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

### **CONFIDENTIAL INFORMATION**

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

### **FORCE MAJEURE**

It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

## TITLE VII

### **HOLD HARMLESS**

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

### **SEVERABILITY**

If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

### **NON WAIVER**

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

### **REPEAL CONFLICTING ORDINANCES**

This ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to this franchise and the same shall supersede all prior ordinances pertaining to this franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 181 of the City of Primghar, Iowa, is hereby repealed as of the effective date hereof.

### **EFFECT AND INTERPRETATION OF ORDINANCE**

The captions which precede each section of this ordinance are for convenience in reference only and shall not be taken into consideration in the interpretation of any of the provisions of this ordinance.

### **EFFECTIVE DATE AND ACCEPTANCE**

This Ordinance shall become effective and be a binding contract between the Grantor and Grantee, upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon acceptance by Grantee by written instrument within sixty (60) days of passage by the governing body, and filed with the City Clerk of the City of Primghar, Iowa. The City Clerk shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance express in writing its objections to any terms or provisions contained therein, or reject this ordinance in its entirety, Grantee shall be deemed to have accepted this ordinance and all of its terms and conditions.

Editor's Note: Aquila, Inc., d/b/a Aquila Networks, a Delaware corporation was purchased by Black Hills Energy.

## TITLE VII

### CHAPTER 2 – URBAN RENEWAL DISTRICT

#### ARTICLE 2 – URBAN REVITALIZATION AREAS

- 2.01 RECORD MAINTAINED. The clerk shall maintain a record of all urban revitalization areas and furnish information concerning such grades upon request.

(Editor's Note: At the time of adopting this Code Book the City had previously established by ordinance two (2) Urban Renewal Project Areas. Urban Renewal Area One was passed and approved as Ordinance 224 on November 25, 1996. Urban Renewal Area Two was passed and approved as Ordinance 227 on April 28, 1997.)

A Primghar Residential Urban Revitalization Area was passed and approved by Council on December 12, 2006.

A Primghar Commercial Urban Revitalization Area was passed and approved by Council on December 12, 2006.

## **APPENDIX A – CITY FEES & RATES**

### **APPENDIX A – CITY FEES & RATES**

#### **AMBULANCE RATES & FEES**

- A. \$250 BLS Non-Emergency
- B. \$400 BLS Emergency
- C. \$350 ALS 1 Non-Emergency
- D. \$475 ALS 1 Emergency RN
- E. \$675 ALS 2 Emergency
- F. \$400 Specialty Care Transport
- G. \$10.50 For each mile a patient is transported in the ambulance as determined by the odometer of the ambulance.

#### **DRIVEWAYS**

FEE. The applicant shall pay a fee of \$2.00 per \$1,000.00 value of the project, with a minimum fee of \$10.00 and a maximum fee of \$500.00. However, there is a flat fee of \$10.00 for a sidewalk.

## APPENDIX A – CITY FEES & RATES

### ELECTRICAL RATES

Customer Class	Rate Component	Electrical Rates July 2009	Rates July 2010
Residential	Customer Charge	\$12.00	\$13.00
	Energy Charge		
	June-Sept.	0.105	0.108
	Oct.-May:		
	0-1,000	0.098	0.101
	Over 1,000	0.070	0.072
Commercial	Customer Charge		
	Single Phase	23.00	25.00
	Three Phase	30.00	32.00
	Energy Charge		
	0-1,000	0.102	0.104
	1,001-10,000	0.093	0.096
	Over 10,000	0.076	0.078
Dual Fuel	Meter Charge	3.50	3.50
	Energy Charge	0.045	0.045
Controlled Water Heater	Credit per month	1.00	1.00
Controlled Central Air Conditioning	Credit each month from June through September	3.00	3.00
Power Cost Adjustment Bases	June - September	0.048	0.048
	October - May	0.043	0.043

(Editor's Note: Electrical rates were amended on December 12, 2005 by Ordinance 2004-9).

### FIRE SERVICE FEES & CHARGES

- A. Car Fires .....\$200 per hour .....up to .....\$500
- B. Grass Fires.....\$200 per hour..... up to ..... \$500
- C. House Fires .....\$250 per hour..... up to ..... \$500
- D. Commercial Structure Fires.....\$300 per hour..... up to .....\$1,000
- E. Hazardous Material Response ..\$150 per truck per hour, plus \$30 per hour for each fire fighter
- F. One hour minimum on all fire types.

(Editor's Note: Fire Service Fees & Charges was added to Appendix A by Ordinance 2004-11, approved on May 24, 2006)

## APPENDIX A – CITY FEES & RATES

### GENERAL FEES TO PUBLIC FOR REQUESTED INFORMATION

FEES AND CHARGES. By resolution of the city council, any and all fees and charges referenced in this section may be adjusted from time to time.

- A. \$30.00 Service charge for checks returned per nonsufficient funds, per check (dishonored check)
- B. \$50.00 Municipal Code
- C. \$25.00 Zoning/Subdivision Code
- D. \$1.00 Zoning/plat maps
- E. \$30.00 Returned check fee
- F. \$25.00/hr Record research
- G. \$.25/page photocopies
- H. \$1.00 fax - 1<sup>st</sup> page \$.25 next page(s)

### LICENSING

FEES. Every licensee shall pay the following fee before a license shall be issued:

1. SCAVENGER
  - a. For one day or any part thereof \$10.00
  - b. For more than one day up to one week \$6.00 per day.
  - c. For one week \$40.00.
  - d. For more than one week but not more than one month, \$20.00 per week and \$4.00 for any day or fraction thereof.
  - e. For one month . . . \$100.00.
  - f. For longer than one month, but less than one year, all fees shall be computed by first computing the monthly fee, then the weekly fee, then the daily fee, and the sum of these fees shall be the fee charged.
  - g. For one year . . . \$500.00
  
2. JUNK
  - a. For one day or any part thereof \$10.00
  - b. For more than one day up to one week \$6.00 per day.
  - c. For one week \$40.00.
  - d. For more than one week but not more than one month, \$20.00 per week and \$4.00 for any day or fraction thereof.
  - e. For one month . . . \$100.00.
  - f. For longer than one month, but less than one year, all fees shall be computed by first computing the monthly fee, then the weekly fee, then the daily fee, and the sum of these fees shall be the fee charged.

## APPENDIX A – CITY FEES & RATES

- g. For one year . . . \$500.00

### 3. HOUSEMOVER

- a. For one day or any part thereof \$10.00
- b. For more than one day up to one week \$6.00 per day.
- c. For one week \$40.00.
- d. For more than one week but not more than one month, \$20.00 per week and \$4.00 for any day or fraction thereof.
- e. For one month . . . \$100.00.
- f. For longer than one month, but less than one year, all fees shall be computed by first computing the monthly fee, then the weekly fee, then the daily fee, and the sum of these fees shall be the fee charged.
- g. For one year . . . \$500.00

**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.

**INSURANCE.** The applicant shall show evidence that he 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 or his agents or employees in the course of the moving operations.

### **PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

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 \$20.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**BOND REQUIRED.** Before a license under this chapter shall be issued, each applicant shall post a bond of \$500.00 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 thirty (30) days from the expiration of each license.



## APPENDIX A – CITY FEES & RATES

FEES. Every licensee shall pay the following fee before a license shall be issued.

### 1. PEDDLERS:

- a. For one day or any part thereof \$10.00
- b. For more than one day up to one week \$6.00 per day.
- c. For one week \$40.00.
- d. For more than one week but not more than one month, \$20.00 per week and \$4.00 for any day or fraction thereof.
- e. For one month \$100.00.
- f. For longer than one month all fees shall be computed by first computing the monthly fee, then the weekly fee, then the daily fee, and the sum of these fees shall be the fee charged.

### 2. SOLICITORS:

- a. In addition to the investigating fee for each person actually soliciting (principal or agent), a fee for the principal solicitor of \$20.00 per year shall be charged.

## PARKS, RECREATION & SWIMMING POOL FEES

### Swimming Pool Fees

A.	Age 6 – 12 (daily admission)	\$2.00 (Includes Sales Tax)
B.	Age 13 and up (daily admission)	\$3.00 (Includes Sales Tax)
C.	Child Punch Pass Age 6 – 12 (10 days)	\$18.00 (Includes Sales Tax)
D.	Adult Punch Pass Age 13 and Up (10 days)	\$27.00 (Includes Sales Tax)
E.	Individual Season Pass	\$45.00 Plus Sales tax
F.	Family Season Pass	\$85.00 Plus Sales Tax
G.	Public Swimming Lessons	\$20.00 (No Sales tax)

(Editor's Note: Swimming Pool Fees were amended by Ordinance 2004-10, approved May 24, 2006.)

### Park & Recreation Fees

- A. Shelter House requires a \$40.00 per day deposit before reservation can be made and \$20.00 of the deposit is returned upon receipt of the key and satisfactory inspection of the shelter house.
- B. Camping fees are \$10.00 per night.

## APPENDIX A – CITY FEES & RATES

### SEWER

- A. Sewer services shall be furnished at the following monthly rates per customer with the City Limits:

Consumption rate for operation, maintenance and replacement fund\*

Residential \$3.15/1,000 gallons of water usage

Commercial \$3.15/1,000 gallons of water usage

Consumption rate for operation, maintenance and replacement fund\*\*

Residential \$3.65/1,000 gallons of water usage

Commercial \$3.65/1,000 gallons of water usage

Editor's Note. Appendix A, Sewer, Subsection A was amended by Ordinance 2004-\_\_\_\_, approved by Council on \_\_\_\_.

- B. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, he must obtain a written permit from the clerk.

(Editor's Note: Appendix A, Sewer, Subsection B was established by Ordinance #2004-3 on November 8, 2004

### SOLID WASTE

- A. The fee for solid waste collection and disposal service used or available shall be:

1. For each residential premise --- \$12.00.
2. Commercial garbage fees shall be billed and collected by the contractor and the contractor shall determine such fees.

- B. An additional fee of \$1.00 is hereby imposed for each additional 32-gallon container or portion thereof of solid waste pickup for each additional residential premise. A tag may be purchased from the City Offices to be placed on each additional container or portion thereof.

- C. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent, and a payment penalty of one and one-half percent (1.5%) of the amount due shall be added thereto.

- D. 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.

Editor's Note: Solid Waste, Section A(1) &(2) was amended by Ordinance 2005-7 on August 8, 2005)

## APPENDIX A – CITY FEES & RATES

### UTILITY FEES

- A. Turn off fee is \$30.00 per utility (water or electrical)
- B. Turn on Fee is \$30.00 per utility (water or electrical)
- C. The fee to post a twenty-four (24) hour or forty-eight (48) hour notice of discontinuation of water service or electrical service is \$30.00.
- D. Residential Combined Utility Security Deposit for electricity, sewer, water and garbage service is \$250.00
- E. Commercial Combined Utility Security Deposit for electricity, sewer, water and garbage service is \$500.00

(Editor's Note: Section D was amended and Section E was added by Ordinance 2004-4, November 8, 2004. Ordinance 2004-10, approved on May 24, 2006 added the wording "or forty-eight hour" to Section C.)

Each customer making a deposit shall be given a deposit receipt; and a permanent file of such receipts shall be kept in the office of the City Clerk, and the deposits shall be placed in a customer guarantee deposits fund. The City may require a new deposit upon the occurrence of circumstances requiring termination of electricity, garbage, sewer or water service to the customer. The City may waive the requirement of a deposit from any customer having an established acceptable credit record with the City for at least three (3) years. Each customer making a deposit shall be given a deposit receipt; and a permanent file of such receipts shall be kept in the office of the City Clerk, and the deposits shall be placed in a customer guarantee deposits fund.

### VEHICLES

FEES FOR IMPOUNDMENT. The owner or lien holder shall pay a fee as set by resolution of the council if vehicle claimed within five (5) days of impounding, plus an amount as set by resolution of the council 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))

### WATER

- A. Water shall be furnished at the following monthly rates per building inside and outside the city limits:

<u>QUANTITY IN GALLONS</u>	<u>RATE PER 1,000 GALLONS</u>
The first 1,000 gallons (minimum)	\$8.00
Next 2,500 gallons	\$4.00
All Over 3,500	\$3.00

## APPENDIX A – CITY FEES & RATES

- B. PERMIT REQUIRED. Before any person makes a connection with the public water system, a written permit must be obtained from the clerk.











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