

# **CITY OF WHITTEMORE CODE OF ORDINANCES**

## **2026**

**CODIFIED BY: NORTH IOWA AREA COUNCIL OF GOVERNMENTS  
525 6<sup>TH</sup> STREET S.W.  
MASON CITY, IOWA 50401**

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# TITLE I GENERAL PROVISIONS

## CHAPTER 1 GENERAL PROVISIONS

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| 1-1-2 | Grammatical Interpretation                     | 1-1-6 | Severability   |
| 1-1-3 | Prohibited Acts Include Causing,<br>Permitting | 1-1-7 | Catchlines, Titles, Headings and Notes                               |
| 1-1-4 | Construction                                   | 1-1-8 | Amendments to Code, Effect of New<br>Ordinances, Amendatory Language |

1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Building" means any man-made structure permanently affixed to the ground.
2. "City" means the City of Whittemore, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk" means Clerk-Treasurer.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Kossuth, Iowa;
7. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
8. "Fiscal Year" means July 1 to June 30.
9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
10. "May" confers a power;
11. "Month" means a calendar month;

12. "Must" states a requirement;
13. "Oath" shall be construed to include an affirmative or declaration 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 equivalent to the words "swear" and "sworn";
14. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
15. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
18. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
19. "Preceding" and "following" mean next before and next after, respectively;
20. "Property" includes real and personal property;
21. "Real property" includes any interest in land;
22. "Shall" imposes a duty;
23. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
24. "State" means the State of Iowa;
25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
28. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
29. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;

30. "Year" means a calendar year;

31. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

32. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;

2. Singular and Plural. The singular number includes the plural and the plural includes the singular;

3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Whittemore Municipal Code of 2017 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 CATCHLINES, TITLES, HEADINGS AND NOTES. The catchlines of the several sections of this City Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this City Code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1-1-8 AMENDMENTS TO CITY CODE, EFFECT OF NEW ORDINANCES, AMENDATORY LANGUAGE.

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: “That section \_\_\_\_\_ of the Code of Ordinances, City of \_\_\_\_\_, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: “That the Code of ordinances, City of \_\_\_\_\_, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ...” The new section shall then be set out in full as desired.

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 2 RIGHT OF ENTRY**

#### 1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

# TITLE I GENERAL PROVISIONS

## CHAPTER 3 PENALTY

- 1-3-1 General Penalty
- 1-3-2 Civil Penalty – Municipal Infraction
- 1-3-3 Scheduled Fines

1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a). No violation of the City Code shall subject an individual to incarceration.

Code of Iowa, Sec. 903.1(1)(a)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.  
(Code of Iowa, Sec. 364.22)

### 1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Whittemore, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Whittemore, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Whittemore.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

### 2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

#### Schedule of Civil Penalties

First offense--Not more than seven hundred fifty dollars (\$750.00).

All other repeat offenses--Not more than one thousand dollars (\$1,000.00).

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

c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

### 3. Civil Citations

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.

c. The original of the citation shall be sent to the Clerk of the district court.

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(1) The name and address of the defendant.

(2) The name or description of the infraction attested to by the officer issuing the citation.

(3) The location and time of the infraction.

(4) The amount of civil penalty to be assessed or the alternative relief sought, or both.

(5) The manner, location, and time in which the penalty may be paid.

(6) The time and place of court appearance.

(7) The penalty for failure to appear in court.

(8) The legal description of the affected property, if applicable.

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

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by

the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of \$100.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.

1-3-3 SCHEDULED FINES. The scheduled fine for a violation of any provision of the City Code shall be in accordance with State Code Chapter 805 unless another scheduled amount is provided in the City Code or Iowa Code.

## TITLE I GENERAL PROVISIONS

### CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

|       |                           |       |                             |
|-------|---------------------------|-------|-----------------------------|
| 1-4-1 | Purpose and Intent        | 1-4-4 | Subpoenas                   |
| 1-4-2 | General                   | 1-4-5 | Conduct of Hearing          |
| 1-4-3 | Form of Notice of Hearing | 1-4-6 | Method and Form of Decision |

#### 1-4-1 PURPOSE AND INTENT.

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.

2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### 1-4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.

2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.

3. Continuances. The City Council may grant continuances for good cause shown.

4. Oaths, certification. The City Council or any member thereof has the power to administer oaths and affirmations.

5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

#### 1-4-3 FORM OF NOTICE OF HEARING.

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the Whittemore City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.

3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

6. Rights of parties. Each party shall have these rights, among others:

a. To call and examine witnesses on any matter relevant to the issues of the hearing;

b. To introduce documentary and physical evidence;

c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

d. To impeach any witness regardless of which party first called the witness to testify;

e. To rebut the evidence against the party; and

f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.

b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

#### 1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.

2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.

3. Effective date of decision. The effective date of the decision shall be stated therein.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

|       |                    |       |                                 |
|-------|--------------------|-------|---------------------------------|
| 2-1-1 | Charter            | 2-1-4 | Number and Term of City Council |
| 2-1-2 | Form of Government | 2-1-5 | Term of Mayor                   |
| 2-1-3 | Powers and Duties  | 2-1-6 | Copies on File                  |

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of Whittemore, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Whittemore, Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Whittemore, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for overlapping terms of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 COPIES ON FILE. The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

|       |                                 |       |                         |
|-------|---------------------------------|-------|-------------------------|
| 2-2-1 | Creation of Appointive Officers | 2-2-6 | Surety                  |
| 2-2-2 | Appointment of Officers         | 2-2-7 | Blanket Position Bond   |
| 2-2-3 | Terms of Appointive Officers    | 2-2-8 | Bonds Filed             |
| 2-2-4 | Vacancies in Offices            | 2-2-9 | Boards and Commissions. |
| 2-2-5 | Bonds Required                  |       |                         |

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers, which shall be appointed by the City Council: Clerk, Deputy Clerk, Attorney, Superintendent of Public Works and Utilities, Planning and Zoning Commission, Zoning Board of Adjustment and Fire Chief.

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore and shall appoint and may dismiss the Police Chief with the consent of a majority of the City Council.

Fire Chiefs shall be elected for terms of one (1) years by the members of the volunteer Fire Department, with the approval of the City Council.

All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 374.4(3))

2-2-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be one (1) year.

2-2-4 VACANCIES IN OFFICES. Vacancies in appointive office shall be filled in accordance with State law.

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond. In lieu of a bond, a municipal officer may obtain an insurance policy in an amount not less than the amount of a required bond, in accordance with State and City law.

(Code of Iowa, Sec. 64.3 and 64.13)

2-2-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.

3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

4. Gender Balance: Boards and commissions shall be gender balanced in accordance with Section 69.16A (Iowa Code).

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS**

|       |   |        |   |
|-------|---|--------|---|
| 2-3-1 | General Duties                                | 2-3-7  | Powers and Duties of the Clerk  |
| 2-3-2 | Books and Records                             | 2-3-8  | Powers and Duties of the City Attorney                                |
| 2-3-3 | Deposits of Municipal Funds                   | 2-3-9  | Powers and Duties of the Superintendent of Public Works and Utilities |
| 2-3-4 | Transfer of Records and Property to Successor | 2-3-10 | Powers and Duties of the Fire Chief                                   |
| 2-2-5 | Unlawful Use of City Property                 |        |   |
| 2-3-6 | Powers and Duties of the Mayor                |        |   |

2-3-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to State law or City charter.

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

2-3-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

2-3-3 DEPOSITS OF MUNICIPAL FUNDS. Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

2-3-4 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-2-5 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use property owned by the City for any private purpose and for personal gain, to the detriment of the City.

2-3-6 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall supervise all departments of the City and give direction to department heads concerning the functions of the departments. The Mayor shall have the power to examine all functions of the municipal departments, their records, and to call for special reports from department heads at any time.

(Code of Iowa, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

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

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote to not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.

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

(Code of Iowa. Sec. 380.6)

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

10. The Mayor shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.

11. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the Police Chief.

13. The Mayor shall make appropriate provision that duties of any absentee officer be carried on during such absence.

2-3-7 POWERS AND DUTIES OF THE CLERK. The duties of the Clerk shall be as follows:

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, within fifteen (15) days of the City Council meeting. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

2. The Clerk shall record each measure taken by the City Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto.

(Code of Iowa, Sec. 380.7(1))

3. The Clerk shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

The Clerk shall authenticate all such measures except motions with said Clerk's signature, certifying the time and place of publication when required.

(Code of Iowa, Sec. 380.7(1) and (2))

4. The Clerk shall maintain copies of all effective City Ordinances and codes for public use.

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

5. The Clerk shall publish notice of public hearings, elections and other official actions as required by State and City law.

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

7. The Clerk shall be the chief accounting officer of the City.

8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year by sending two copies each of the detailed budget as adopted, and of the tax certificate to the County Auditor and the County Board of Supervisors.

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

10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.

11. The Clerk shall balance all funds with the bank statement at the end of each month.

12. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.

(Code of Iowa, Sec. 384.22)

13. The Clerk shall maintain all City records as required by law.

(Code of Iowa, Sec. 372.13(3) and (5))

14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

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

15. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

16. The Clerk shall 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 the Clerk's duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)

17. The Clerk shall attend all meetings of committees, boards and commissions of the City. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

21. The Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.

(Code of Iowa, Sec. 376.4)

22. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.

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

23. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

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

24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

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

25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.

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

26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

27. The Clerk shall keep the record of each fund separate.

(Code of Iowa, Sec. 372.13(4) and 384.85)

28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.

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

29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.

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

30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.

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

31. The Clerk shall, immediately 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 City Council in amounts not exceeding monetary limits authorized by the City Council.

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

2-3-8 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. Upon request, the City Attorney shall attend every regular meeting of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.

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

3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.

5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.

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

7. The City Attorney shall not appear on behalf of any municipal office 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 City 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 his or her office or employment.

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

9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

2-3-9 POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC WORKS AND UTILITIES. The duties of the Superintendent of Public Works and Utilities shall be as follows:  
(Code of Iowa, Sec. 372.13(4))

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal utilities.

2. The Superintendent with the assistance of the City Clerk shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.

3. The Superintendent shall make a report every month or as requested to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of free services rendered to the municipality during the year and their estimated cash value; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.

4. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.

5. The Superintendent shall maintain and repair the sidewalks, alleys, bridges and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, and is charged with the duty of correcting unsafe defects.

6. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.

7. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly, or as directed reports

of the activities of the department to the Mayor.

8. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

2-3-10 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall 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. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

3. The Fire Chief shall 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. The Fire Chief shall cause to be kept 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. The Fire Chief shall make monthly written reports on or before the fifth day of each month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.

6. The Fire Chief shall enforce all Ordinances and, where 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 exits 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.
- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

2-4-1 Council Member  
2-4-2 Mayor

2-4-3 Mayor Pro Tem  
2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be thirty (\$30.00) dollars for each meeting of the City Council attended, but in no event shall any City Council member be paid more than one thousand (\$1,000.00) dollars in any one year.  
(Code of Iowa, Sec. 372.13(8))

2-4-2 MAYOR. The Mayor shall receive an annual salary of one thousand \$1,000.00 per year.  
(Code of Iowa, Sec. 372.13(8))

2-4-3 MAYOR PRO TEM. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen days or more, the Mayor Pro Tem may be paid for that period the compensation determined by the City Council, based upon the Mayor Pro Tem's performance of the mayor's duties and upon the compensation of the mayor.  
(Code of Iowa, Sec. 372.13(8))

2-4-4 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.  
(Code of Iowa, Sec. 372.13(4))

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

|       |                       |        |                      |
|-------|-----------------------|--------|----------------------|
| 2-5-1 | Budget Adoption       | 2-5-6  | Budget Officer       |
| 2-5-2 | Budget Amendment      | 2-5-7  | Expenditures         |
| 2-5-3 | Accounts and Programs | 2-5-8  | Accounting           |
| 2-5-4 | Annual Report         | 2-5-9  | Budget Accounts      |
| 2-5-5 | Council Transfers     | 2-5-10 | Contingency Accounts |

2-5-1 BUDGET ADOPTION, Annually, the City shall prepare and adopt a budget, and shall certify taxes in accordance with Section 384.16.

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the State City finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.

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

3. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following 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, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-5-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July first and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.
4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-5-3 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State City Finance Committee.

The City shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-5-4 ANNUAL REPORT. Not later than December first of each year the City shall publish 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 this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

2-5-5 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs 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 accounts can provide the needed appropriations, the City 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 City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545--2.4(384,388))

2-5-6 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-7 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as authorized by the City Council.

2-5-8 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk and Mayor.

(Code of Iowa, Sec. 384.20)

2-5-9 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. 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)

2-5-10 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

All administrative transfers shall be reported in writing at the next regular meeting of the City Council after being made and the fact set out in the minutes for the information of the Mayor and City Council.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 6 CITY ELECTIONS

|       |                              |       |   |
|-------|------------------------------|-------|---|
| 2-6-1 | Purpose                      | 2-6-5 | Preparation of Petition                         |
| 2-6-2 | Nominating Method to be Used | 2-6-6 | Filing, Presumption, Withdrawals,<br>Objections |
| 2-6-3 | Nominations by Petition      | 2-6-7 | Persons Elected                                 |
| 2-6-4 | Adding Name by Petition      |       |   |

2-6-1 PURPOSE. The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-6-2 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

2-6-3 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.

2-6-4 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

2-6-5 PREPARATION OF PETITION. Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1. Name and Residence. The name and residence (including street and number, if any) of said nominee, and the office to which nominated.

2. Name on Ballot. A request that the name of the nominee be printed upon the official ballot for the election.

3. Eligibility. A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.

4. Organization Statement. A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

Such petition when so verified shall be known as a nomination paper.

2-6-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

2-6-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 7 POLICE DEPARTMENT**

#### **2-7-1 Contract Law Enforcement**

2-7-1 **CONTRACT LAW ENFORCEMENT.** In lieu of the appointment of a Police Chief by the Mayor, the City Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

(Code of Iowa, Sec. 28E.30)

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 8 CITY COUNCIL

2-8-1 Powers and Duties  
2-8-2 Exercise of Power

2-8-3 Meetings

2-8-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

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

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

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

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

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

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

(Code of Iowa 384.16 & 384.38(1))

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

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

5. Contracts. The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.

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

(Code of Iowa 384.95 through 384.102)

6. Employees. The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.

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

7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City 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 City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A

change in the compensation of City Council members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

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

2-8-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

1. Approved Action by the City Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of ten thousand dollars (\$10,000) 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 the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City 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 City 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 City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when published unless a subsequent effective date is provided with 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 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))

2-8-3 MEETINGS.

1. Regular Meetings. The regular meetings of the City Council are on the first Mondays of each month at six o'clock (6:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or for other reason, the meeting will be held on such different day or time as determined by the City Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City 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 City Council. A record of the service of notice shall be maintained by the City Clerk.

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

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

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

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

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

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

|       |  |       |                          |
|-------|--|-------|--------------------------|
| 3-1-1 | Violations of Chapter                    | 3-1-5 | Streets                  |
| 3-1-2 | Public Peace                             | 3-1-6 | Public Safety and Health |
| 3-1-3 | Public Morals- Indecent Exposure         | 3-1-7 | Public Property          |
| 3-1-4 | Public Morals - Urinating and Defecating |       |                          |

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, 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. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

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

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

5. Without lawful authority or order of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

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

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

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

3-1-3 PUBLIC MORALS. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another if the person knows or reasonably should know that such behavior would be offensive to a reasonable person

3-1-4 PUBLIC MORALS. Urinating and Defecating. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

3-1-5 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, 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 thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the Mayor.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

5. Dumping of snow or grass clippings. It shall be unlawful for any person to throw, push, blow, or place or cause to be thrown, pushed, blown, or placed, any ice or snow or grass clippings 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 streets or to create a hazardous condition therein; except where, in the cleaning of the large commercial drives in the business district it is absolutely necessary to move snow on to the streets temporarily, such accumulation shall be removed promptly by the property owner or agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

Penalties for violations shall be as follows:

- |                            |          |
|----------------------------|----------|
| a. 1 <sup>st</sup> Offense | \$50.00  |
| b. 2 <sup>nd</sup> Offence | \$100.00 |
| c. 3 <sup>rd</sup> Offence | \$200.00 |

### 3-1-6 PUBLIC SAFETY AND HEALTH.

1. Expectorating. No person shall expectorate on the ground or on the floor of any structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting glass, etc., on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance, which the person knows or has reason to know may injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.

4. Stench bombs. No person shall 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, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or 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, 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.

5. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

6. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight 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 other structure, under such person's 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, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

7. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

8. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of his or her family during the course of, or as a result of, the performance of any official duty by said City employee.

9. Antenna and radio wires. No person shall allow, locate or maintain any 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))

10. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.

(Code of Iowa, Sec. 364.1)

11. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police for such purposes.

(Code of Iowa, Sec. 364.12)

### 3-1-7 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.

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

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement.

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall 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. 364.12(2))

4. Injury to public library books or property. No person shall willfully, or recklessly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

5. Defacing or destroying proclamations or notices. No person shall 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 of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of 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)

6. Injury to gravestones or property in cemetery. No person shall willfully or recklessly destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

8. Injury to city ambulance or paramedic apparatus. No person shall willfully destroy or injure any ambulance or paramedic unit, equipment or other things used to administer medical care.

(Code of Iowa, Sec. 716.1)

8. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof.

(Code of Iowa, Sec. 716.1)

9. Injury to roads, railways, and other utilities. No person shall injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, 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

willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any 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 aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

10. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.

(Code of Iowa, Sec. 727.8)

11. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

|       |                                       |        |  |
|-------|---------------------------------------|--------|--|
| 3-2-1 | Definitions                           | 3-2-7  | Request for Hearing and Appeal           |
| 3-2-2 | Nuisances Prohibited                  | 3-2-8  | Abatement in Emergency                   |
| 3-2-3 | Other Conditions Regulated            | 3-2-9  | Abatement by Municipality                |
| 3-2-4 | Notice to Abate Nuisance or Condition | 3-2-10 | Collection of Cost of Abatement          |
| 3-2-5 | Contents of Notice to Abate           | 3-2-11 | Installment Payment of Cost of Abatement |
| 3-2-6 | Method of Service                     | 3-2-12 | Condemnation of Nuisance                 |

3-2-1 DEFINITIONS. For use in this Ordinance, the following terms are defined:

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

c. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

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

d. The polluting 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))

e. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

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

f. Houses of ill fame, kept for the purpose of 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))

g. 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, especially near intersecting streets.

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

h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

i. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing.

(Code of Iowa, Sec. 657.2(8))

j. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, within the fire limits of this City, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(9))

k. The emission of dense smoke, noxious fumes, or fly ash.

(Code of Iowa, Sec. 657.2(10))

l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any city owned property between the abutting property line and the street right-of-way.

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

m. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(12))

n. Effluent from septic tank or drain field running or ponding on the ground in the open.

o. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

(Code of Iowa, Sec. 657.3)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. 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(3)(b))

2. The removal, repair, or dismantling of dangerous buildings or structures.

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

3. The numbering of buildings.

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

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

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

5. 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(3)(f))

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

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

7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets, except as provided in Section 3-2-3 (1).

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section 3, the Mayor or officer shall notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice.

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

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

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

1. A description of what constitutes the nuisance or other condition.

2. The location of the nuisance or condition.

3. A statement of the act or acts necessary to abate the nuisance or condition.

4. A reasonable time within which to complete the abatement.

5. 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.

3-2-6 METHOD OF SERVICE. The notice may be sent by regular mail to the property owner as shown by the records of the County Auditor.

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

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

3-2-9 ABATEMENT BY MUNICIPALITY. 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 City Clerk, who shall pay such expenses on behalf of the municipality.

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred 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 City Clerk shall certify the costs to the County Auditor and they shall then be collected with, and in the same manner, as general property taxes.

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

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$500, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

- 3-3-1 Short Title
- 3-3-2 Definitions
- 3-3-3 Traffic Accident Reports
- 3-3-4 Police Department to Submit Annual Reports

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

- 3-3-5 Authority of Police and Fire Department Officials
- 3-3-6 Required Obedience to Provisions of This Chapter and State Law

#### TRAFFIC CONTROL DEVICES

- 3-3-7 Authority to Install Traffic-Control Devices
- 3-3-8 Chief of Police to Designate Crosswalks, Establish, And Mark Traffic Lanes
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#### TURNING MOVEMENTS

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- 3-3-41 Definitions
- 3-3-42 Traffic Code Applies To Persons Riding Bicycles
- 3-3-43 Riding On Bicycles
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- 3-3-51 Snowmobile Definitions
- 3-3-52 Permitted Areas of Operation
- 3-3-53 Regulations
- 3-3-54 Equipment Required
- 3-3-55 Unattended Vehicles
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- 3-3-57 Traffic Regulation

3-3-1 SHORT TITLE. This chapter may be known and cited as the "Traffic Code".

3-3-2 DEFINITIONS. Where words and phrases used in this chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this Ordinance.

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.

3. "Stop", when required means complete cessation of movement.

4. "Stop or stopping", when prohibited, means 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 police officer or traffic-control sign or signal.

5. "Business districts" means: the territory contiguous to and including a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

## OFF-ROAD VEHICLES

- 3-3-58 Definitions
- 3-3-59 Operation of Off-Road Vehicles

## GOLF CARTS

- 3-3-60 Definitions
- 3-3-61 Operation of Golf Carts

## PENALTIES AND PROCEDURE

- 3-3-62 Notice of Fine Placed On Illegally Parked Vehicle
- 3-3-63 Presumption In Reference to Illegal Parking
- 3-3-64 Local Parking Fines
- 3-3-65 Failure to Pay Parking Citations

6. "Residence districts" means the territory within a city contiguous to and including a highway, not comprising a business, suburban, or school district, where 40% or more of the frontage on such highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1)

3-3-3 TRAFFIC ACCIDENT REPORTS. 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 Chief of Police. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

The City shall maintain a suitable system of filing traffic accident reports.

(Code of Iowa, Sec. 321.266)

3-3-4 POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS. The Police Chief shall prepare annually a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents, the number of persons killed or injured, the number and nature of violations, and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-6 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

1. 321.98 Operation without registration.
2. 321.180 Violations of instruction permit limitations.
3. 321.193 Violation of conditions of restricted license.
4. 321.194 Violation of conditions of minor's school license.
5. 321.216 Unlawful use of license.
6. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
7. 321.219 Permitting unauthorized minor to drive.
8. 321.220 Permitting unauthorized person to drive.
9. 321.229 Failure to comply with lawful order of peace officer.

10. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
11. 321.232 Radar jamming devices.
12. 321.234 Failure to observe seating requirements.
13. 321.236 (Parking) Violation of local ordinance (not a state offense).
14. 321.256 Failure to obey traffic control device.
15. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
16. 321.260 Unlawful possession of, or interference with traffic control device.
17. 321.264 Striking unattended vehicle.
18. 321.265 Striking fixtures upon a highway.
19. 321.275 Motorcycle and motorized bicycles violations.
20. 321.277 Reckless driving.
21. 321.278 Drag racing prohibited.
22. 321.285 Speed restrictions.
23. 321.286 Truck speed limits (highway).
24. 321.287 Bus speed limits (highway).
25. 321.288 Failure to maintain control.
26. 321.294 Failure to maintain minimum speed when directed by officer.
27. 321.295 Excessive speed on bridge.
28. 321.297 Driving on wrong side of two-way highway.
29. 321.298 Failure to yield half of roadway upon meeting vehicle.
30. 321.299 Passing on wrong side.
31. 321.303 Unsafe passing.
32. 321.304 Unlawful passing.
33. 321.305 Violating one-way traffic designation.
34. 321.306 Improper use of lanes.
35. 321.307 Following too closely.
36. 321.308 Following too closely (trucks and towing vehicles).
37. 321.309 Failure to use approved drawbar.
38. 321.310 Unlawful towing of four-wheeled trailer.
39. 321.311 Turning from improper lane.
40. 321.312 Making U-turn on curve or hill.
41. 321.313 Unsafe starting of a stopped vehicle.
42. 321.314 Unsafe turn or failure to give signal.
43. 321.315 Failure to give continuous turn signal.
44. 321.316 Failure to signal stop or rapid deceleration.
45. 321.317 Signal light requirements; see equipment violation.
46. 321.318 Incorrect hand signal.
47. 321.319 Failure to yield to vehicle on right.
48. 321.320 Failure to yield upon left turn.
49. 321.321 Failure to yield upon entering through highway.
50. 321.322 Failure to obey stop or yield sign.
51. 321.323 Unsafe backing on highway.
52. 321.324 Failure to yield to emergency vehicle.
53. 321.325 Pedestrian disobeying traffic control signal.
54. 321.326 Pedestrian walking on wrong side of highway.
55. 321.327 Pedestrian right-of-way.
56. 321.328 Pedestrian failing to use crosswalk.

57. 321.329 Vehicle failing to yield to pedestrian.
58. 321.331 Soliciting ride from within roadway.
59. 321.332 Unlawful use of white cane.
60. 321.333 Failure to yield to blind person.
61. 321.340 Driving in or through safety zone.
62. 321.341 Failure to properly stop at railroad crossing.
63. 321.342 Failure to obey stop sign at railroad crossing.
64. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
65. 321.344 Unlawful movement of construction equipment across railroad track.
66. 321.353 Unsafe entry into sidewalk or roadway.
67. 321.354 Stopping on traveled part of highway.
68. 321.358 Stopping, standing, or parking where prohibited.
69. 321.360 Prohibited parking in front of certain buildings.
70. 321.361 Parking too far from curb/angular parking.
71. 321.362 Parking without stopping engine and setting brake.
72. 321.363 Driving with obstructed view or control.
73. 321.365 Coasting upon downgrade.
74. 321.366 Improper use of median, curb, or controlled access facility.
75. 321.367 Failure to maintain distance fire-fighting vehicle.
76. 321.368 Crossing unprotected fire hose.
77. 321.369 Putting debris on highway/roadway.
78. 321.370 Removing injurious material.
79. 321.371 Clearing up wrecks.
80. 321.372 School bus provisions.
81. 321.377 Excessive speed of school bus.
82. 321.381 Driving or towing unsafe vehicle.
83. 321.382 Operating underpowered vehicle.
84. 321.383 Failure to display reflective device on slow-moving vehicles.
85. 321.384 Failure to use headlamps when required.
86. 321.385 Insufficient number of headlamps.
87. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
88. 321.387 Improper rear lamp.
89. 321.388 Improper registration plate lamp.
90. 321.389 Improper rear reflector.
91. 321.390 Reflector requirements.
92. 321.391 Improper type of reflector.
93. 321.392 Improper clearance lighting on truck or trailer.
94. 321.393 Lighting device color and mounting.
95. 321.394 No lamp or flag on rear-projecting load.
96. 321.395 Parking on certain roadways without parking lights.
97. 321.397 Improper light on bicycle.
98. 321.398 Improper light on other vehicle.
99. 321.402 Improper use of spotlight.
100. 321.403 Improper use of auxiliary driving lights.
101. 321.404 Improper brake light.
102. 321.408 Back-up lamps.
103. 321.409 Improperly adjusted headlamps.
104. 321.415 Failure to dim.

105. 321.419 Improper headlighting when night driving.
106. 321.420 Excessive number of driving lights.
107. 321.422 Lights of improper color-front or rear.
108. 321.423 Special light/signal provision.
109. 321.430 Defective braking equipment.
110. 321.431 Brake performance ability.
111. 321.432 Defective audible warning device.
112. 321.433 Unauthorized use of emergency audible warning devices on vehicle.
113. 321.434 Use of siren or whistle on bicycle.
114. 321.436 Defective or unauthorized muffler system.
115. 321.437 Mirrors.
116. 321.438 Windshields.
117. 321.439 Defective windshield wiper.
118. 321.440 Defective tires.
119. 321.441 Unauthorized use of metal tire or track.
120. 321.442 Unauthorized use of metal projection on wheels.
121. 321.444 Failure to use safety glass.
122. 321.445 Failure to maintain or use safety belts.
123. 321.446 Failure to secure child.
124. 321.449 Special regulations.
125. 321.450 Hazardous materials.
126. 321.454 Width and length violations.
127. 321.455 Excessive side projection of load – passenger vehicle.
128. 321.456 Excessive height.
129. 321.457 Excessive length.
130. 321.458 Excessive projection from front of vehicle.
131. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
132. 321.460 Spilling loads on highways.
133. 321.461 Excessive tow-bar length.
134. 321.462 Failure to use required towing equipment.
135. 321.463 Maximum gross weight.
136. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

## TRAFFIC CONTROL DEVICES

3-3-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Chief of Police shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, 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 Ordinances of this City or under State law or to guide or warn traffic.

The Chief of Police shall keep a record of all traffic-control devices maintained by the department.

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways at the time the control device is placed or erected.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 CHIEF OF POLICE TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Chief of Police is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks 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.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where 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 a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-3-9 PLAY STREETS. The Chief of Police, Mayor, City Council has the authority to close any street for purposes approved as follows:

1. Play Streets. The Mayor has the authority to 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 the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

2. Private/Neighborhood Parties/Events. Citizens may request with an application to the City Council to close a street or portion of a street for a private or neighborhood events such as parties, celebrations, etc. The application shall be in writing only with the details of the responsible party name and contact number, location, date, start time of the event, and end time of the event. The responsible party shall also inform/notify property owners within two hundred (200') feet of the "event property", prior to the event and provide the date of the Council Meeting where affected property owners can provide input to the Council for said event. The City Council, upon reviewing the application and hearing from affected property owners, shall have sole discretion for approval and may impose additional requirements or conditions.

Whether on the street or on private property, the "event" must comply with 3-1-2(2) of the City Code prohibiting "... unusually loud or excessive noise which results in the disturbance of the peace and public quiet of a neighborhood."

TURNING MOVEMENTS

3-3-10 TURNING MARKERS, BUTTONS AND SIGNS. The Chief of Police 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 the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-11 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The Chief of Police is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-12 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.

#### ONE-WAY STREETS AND ALLEYS

3-3-13 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the Chief of Police shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-14 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Chief of Police is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, 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 thereof. The Chief of Police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

#### SPECIAL STOPS REQUIRED

3-3-15 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways:

1. Fourth Street
2. Fifth Street
3. Broad Street

(Code of Iowa, Sec. 321.345 and 321.350)

3-3-16 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways and shall include the following locations:

1. Fourth Street, from the north corporate limits to the south corporate limits.

2. Fifth Street, from the north corporate limits to Broad Street.
3. Broad Street, from Fourth Street to Seventh Street.

3-3-17 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required. The following locations shall be designated stop locations:

1. Washington Street. Vehicles traveling east on Washington Street shall stop at Third Street.
2. Every driver of a vehicle traveling through the intersection of 210 Street and Fourth Street shall stop at any of the STOP signs located within said interchange.

3-3-18 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.

3-3-19 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

#### PEDESTRIANS' RIGHTS AND DUTIES

3-3-20 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.  
(Code of Iowa, Sec. 321.326)

#### METHOD OF PARKING

3-3-21 STANDING OR PARKING CLOSE 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 inches of the curb or edge of the roadway except as 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)

3-3-22 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.  
(Code of Iowa, Sec. 321.361)

3-3-23 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that 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 the signs and markings.

#### STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

3-3-24 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:  
(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. 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.
8. 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 signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.

14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.

3-3-25 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Chief of Police may cause curbing to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

3-3-26 AUTHORITY TO IMPOUND VEHICLES. Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

1. 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.
2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

In addition to the penalties hereinafter provided, the owner or driver of any vehicle impounded for violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing charges and storage.

#### STOPPING, STANDING OR PARKING

3-3-27 PARKING SIGNS REQUIRED. Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

1. No parking on the north side of Prairie Street between 2<sup>nd</sup> street to the start of the cul-de-sac or in between the signs.

(Code of Iowa, Sec. 321.236)

3-3-28 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-29 TRUCK PARKING LIMITED. Trucks licensed for five tons or more, loaded or empty, shall not be parked on any public street. This provision shall not apply to pick-up, light delivery, panel delivery trucks or any truck engaged in the pickup or delivery of merchandise.

3-3-30 ELECTRIC VEHICLE CHARGING. It shall be unlawful for any person to park or stand a non-electric vehicle in any municipal parking space that has been designated as a public electric vehicle charging station. Further, it shall be unlawful for any person to park or stand an electric vehicle in a municipal parking space that has been designated as a public electric vehicle charging station when not electrically charging or parked beyond the days and hours designated on the regulatory signs posted. For purposes of this section, "charging" means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.

#### MISCELLANEOUS DRIVING RULES

3-3-31 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-32 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this 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 or herself to any vehicle upon a roadway.

3-3-33 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.

3-3-34 DRIVING THROUGH FUNERAL OR OTHER 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 the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-35 DRIVERS IN A PROCESSION. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-36 FUNERAL PROCESSIONS TO BE IDENTIFIED. A funeral 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 department.

3-3-37 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on the signs at any time.

3-3-38 TRUCK ROUTES.

1. Every motor vehicle licensed for five tons or more, when loaded or empty, having no fixed terminal within the City or making no schedule or definite stops within the City for the purpose of loading or unloading, shall travel only on the following streets:

- a. 4<sup>th</sup> Street from north City Limits to South City Limits
- b. Broad Street west of 4<sup>th</sup> Street to City Limits
- c. 5<sup>th</sup> Street north of Broad Street to City Limits

2. Any motor vehicle licensed for five 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 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 the designated route.

3. 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.

3-3-39 VEHICULAR NOISE.

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise which results in discomfort or annoyance to any reasonable person of normal sensitivity by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

2. The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in such a manner so as to be audible at a distance of two hundred (200') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

3-3-40 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

## BICYCLE REGULATIONS

3-3-41 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean the following:

a. A device having two or three wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

b. A low speed electric bicycle.

(Code of Iowa, Sec. 321.1(40)(c))

3-3-42 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-43 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

3-3-44 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

3-3-45 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-46 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-47 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-48 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-49 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles on the sidewalk or roadway, no person shall disobey such signs.

Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right of way to any pedestrian and shall give a timely audible signal before overtaking and passing a pedestrian.

3-3-50 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

## SNOWMOBILES

3-3-51 SNOWMOBILE DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-52 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate on City streets with sufficient snow cover.

3-3-53 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.

2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.

3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile registered as provided for by Iowa Statute 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.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

7. No person shall operate a snowmobile or all-terrain vehicle in the City from two o'clock (2:00) a.m. to seven o'clock (7:00) a.m., except for the purpose of loading and unloading a snowmobile or all-terrain vehicle from another vehicle or trailer, or returning from a destination outside the city limits, in which case the operator must proceed directly to a destination and cease motor operation.

3-3-54 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.

3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-55 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-56 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-57 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

## OFF-ROAD VEHICLES

3-3-58 DEFINITIONS. For use in this Chapter the following terms are defined:

1. “All-terrain vehicle” (ATV) means a motorized vehicle with not less than three and not more than six non-highway tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the Iowa Code, but which contains design features that enable operation over natural terrain. Off-road motorcycles shall be considered all-terrain vehicles for the purposes of registration. All off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling. An operator of an off-road motorcycle is subject to the provisions governing the operation of all-terrain vehicles.

3. “Off-road utility vehicle (UTV)” means a motorized vehicle with no less than four and not more than eight non-highway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control as defined in Section 321I.1(17), Iowa Code.

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

3-3-59 OPERATION OF OFF-ROAD VEHICLES. The operation of ATV or off-road motorcycles shall comply with the following restrictions:

1. Streets. Only on public streets.

(Code of Iowa 321.234A) (Code of Iowa 321I)

2. Prohibited Operation. Shall not be operated on sidewalks, railroad right-of-way, parks, or other City land.

3. Operation During Darkness. Every all-terrain vehicle operated during the hours of darkness shall display a lighted headlamp and tail lamp that shall be original to the machine or similar.

(Code of Iowa 321I.13)

4. Compliance with State Code. All operation shall comply with Iowa Code Chapter 321I.

5. Use of any ATV or UTV within the City must first be registered with the proper State authority. The operator must carry the registration certificate whenever the ATV or UTV is in use. The State registration decal must be displayed on the ATV or UTV and remain clearly visible. All ATVs and UTVs operated within the City must have operational headlights, taillights, break lights, horn, and rearview mirrors.

6. ATVs and UTVs operating within the City must not exceed a maximum speed of 35 miles per hour and obey posted speed limits.

7. An individual operating an ATV or UTV within the City must be at least 18 years old with a valid driver's license and valid proof of insurance.

## GOLF CARTS

3-3-60 DEFINITIONS. For use in this ordinance "golf cart" is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-61 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver's license. The City Council may impose restrictions and conditions in addition to those set forth in this section. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

## PENALTIES AND PROCEDURE

3-3-62 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk's office as provided therein.

3-3-63 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-64 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within seven days of the violation, for the following parking violations:

|                                      |          |
|--------------------------------------|----------|
| 1. Overtime parking                  | \$ 25.00 |
| 2. Prohibited parking                | \$ 25.00 |
| 3. No parking zone                   | \$ 25.00 |
| 4. Blocking alley                    | \$ 25.00 |
| 5. Illegal parking                   | \$ 25.00 |
| 6. Street cleaning                   | \$ 25.00 |
| 7. Snow removal ban                  | \$ 25.00 |
| 8. Persons with disabilities parking | \$100.00 |

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

3-3-65 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the seven days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event such letter is disregarded for a period of five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 4 RAILROAD REGULATION

|       |                                   |       |                              |
|-------|-----------------------------------|-------|------------------------------|
| 3-4-1 | Definitions                       | 3-4-4 | Street Crossing Obstructions |
| 3-4-2 | Warning Signals                   | 3-4-5 | Maintenance of Crossings     |
| 3-4-3 | Street Crossing Signs and Devices | 3-4-6 | Flying Switches              |

3-4-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. The term "railroad train" shall mean any steam, electric or other motor driven engine and the cars, if any, coupled to the engine operated on rails, but does not include interurbans and street cars.

(Code of Iowa, Sec. 321.1(58))

2. The term "operator" shall mean any individual, partnership, corporation or other association that owns, operates, drives or controls a railroad train.

3-4-2 WARNING SIGNALS. Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-4-5 of this chapter.

(Code of Iowa, Sec. 327G.13)

3-4-3 STREET CROSSING SIGNS AND DEVICES. Operators shall erect and maintain non-mechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail.

(Code of Iowa, Sec. 327G.15)

3-4-4 STREET CROSSING OBSTRUCTIONS. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

(Code of Iowa, Sec. 327G.32)

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

An employee is not guilty of a violation if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

3-4-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Code of Iowa, Sec. 327G.15)

3-4-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such car's or cars' approach.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 5 FIRE PROTECTION

|       |   |       |                           |
|-------|---|-------|---------------------------|
| 3-5-1 | Establishment and Purpose                           | 3-5-5 | Liability Insurance       |
| 3-5-2 | Volunteer Fire Fighters                             | 3-5-6 | Fires Outside City Limits |
| 3-5-3 | Fire Fighter's Duties                               |       |                           |
| 3-5-4 | Worker's Compensation and Hospitalization Insurance |       |                           |

3-5-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

3-5-2 VOLUNTEER FIRE FIGHTERS. Residents of Whittimore, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Chief, all fire fighters 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 fire fighter who has been appointed by the Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Chief.

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

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 LIABILITY INSURANCE. The City 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.

3-5-6 FIRES OUTSIDE CITY LIMITS. 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 or pursuant to an agreement with the County or Township.

(Code of Iowa, Sec. 364.16)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

|       |                      |       |                               |
|-------|----------------------|-------|-------------------------------|
| 3-6-1 | Preamble             | 3-6-4 | Offenses                      |
| 3-6-2 | Findings and Purpose | 3-6-5 | Defenses                      |
| 3-6-3 | Definitions          | 3-6-7 | Penalty, Municipal Infraction |

3-6-1 PREAMBLE. The City of Whittemore recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Whittemore; and

Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Whittemore has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 12:01 a.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
4. Guardian means:
  - a. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.

5. Minor means any person under age 17 years of age.

6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

7. Parent means a person who is:

a. A biological parent, adoptive parent, or step-parent of another person; or

b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

9. Remain means to:

a. Linger or stay; or

b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.

2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

#### 3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:

a. Accompanied by the minor's parent or guardian;

b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;

c. In a motor vehicle involved in interstate travel;

d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

e. Involved in an emergency;

f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Whittemore, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Whittemore, a civic organization, or another similar entity that takes responsibility for the minor;

h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-6-6 PENALTY, MUNICIPAL INFRACTION. The violation of this chapter shall be a municipal infraction with penalties not to exceed those contained in the City Code.

"Editor's Note: The courts have carefully scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See *Maquoketa v. Russell*, 484 NW2d, 179 (Iowa 1992) and *Quit v. Strauss*, 8 F2d 260 (1993)."

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 ALCOHOLIC BEVERAGES

|       |   |       |                   |
|-------|---|-------|-------------------|
| 3-7-1 | Purpose   | 3-7-3 | Action by Council |
| 3-7-2 | Required Obedience to Provisions<br>of this Chapter and State Law | 3-7-4 | Transfers         |

3-7-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.  
(Code of Iowa, Sec. 364.1)

3-7-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.  
The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Restrictions on Transportation
5. 123.30 Retail Alcohol Licenses - Classes
6. 123.31 Retail Alcohol Licenses - Application
7. 123.33 Records
8. 123.34 Seasonal, Fourteen-day, and Five -day License - Fees
9. 123.35 Expiration of Licenses, Permits, and Certificates of Compliance
10. 123.36 Retail Alcohol License Fees
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts Prohibited
15. 123.46 Consumption or Intoxication in Public Places –Notifications –Chemical Tests -  
Expungement

16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.171 through 123.182 Wine Provisions (Division V)
25. 321.284 Open Containers in Motor Vehicles - Drivers
26. 321.284A Open Containers in Motor Vehicles - Passengers

3-7-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

(Code of Iowa, Sec. 123.32(2))

3-7-4 TRANSFERS. The City 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 the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 JUNK AND ABANDONED VEHICLES

|       |  |        |                                   |
|-------|--|--------|-----------------------------------|
| 3-8-1 | Purpose                                      | 3-8-8  | Junk Vehicles Declared a Nuisance |
| 3-8-2 | Definitions                                  | 3-8-9  | Notice to Abate                   |
| 3-8-3 | Removal of Abandoned Vehicles                | 3-8-10 | Abatement by Municipality         |
| 3-8-4 | Notification of Owners and<br>Lienholders    | 3-8-11 | Collection of Cost of Abatement   |
| 3-8-5 | Impoundment Fees and Bonds                   | 3-8-12 | Exceptions                        |
| 3-8-6 | Hearing Procedures                           | 3-8-13 | Interference with Enforcement     |
| 3-8-7 | Auction or Disposal of Abandoned<br>Vehicles |        |                                   |

3-8-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 364.1)

3-8-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or

b. A vehicle that has remained illegally on public property for more than twenty-four hours;  
or

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or

d. A vehicle that has been legally impounded by order of the Chief of Police and has not been reclaimed for a period of ten days; or

e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

2. "Private property" means any real property within the City which is not public property as defined in this section.

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.

4. A "junk vehicle" means any unlicensed vehicle stored within the corporate limits of the City of Whittemore, Iowa, or which has any one of the following characteristics:

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

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

d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

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

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

f. Any vehicle left unattended on jacks, blocks, or elevated in any way constituting a safety hazard or threat to the public health or welfare.

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

### 3-8-3 REMOVAL OF ABANDONED VEHICLES.

1. The Chief of Police may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-8-2 (1). The Chief of Police may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

(Code of Iowa, Sec. 321.89(2))

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

#### 3-8-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Chief of Police shall notify, within three days, by certified mail with five-days return receipt, 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:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. 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 Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-8-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-8-5.

(Code of Iowa, Sec. 321.89(3)(a))

2. The owner or any person receiving notice may, by written request received by the Chief of Police prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

a. the identity of the last registered owner cannot be determined, or

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### 3-8-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

a. an impoundment fee

b. towing charges

c. preservation charges

d. storage charges

e. notice charges

(Code of Iowa, Sec. 321.89(3)(a))

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-8-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

a. the fees required by Section 3-8-5(1)

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

### 3-8-6 HEARING PROCEDURES.

1. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

3-8-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-8-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Whittemore, Iowa, 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 vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

### 3-8-9 NOTICE TO ABATE.

1. Whenever the Chief of Police shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-8-8, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:

a. the owner of the property.

b. the occupant of the property.

2. The notice to abate shall:

a. describe, to the extent possible, the year, make, model, and color of the vehicle.

b. describe the location of the vehicle.

c. state that the vehicle constitutes a nuisance under the provisions of this chapter.

d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

3-8-10 ABATEMENT BY MUNICIPALITY. 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 City Clerk who shall pay such expenses on behalf of the municipality.

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

3-8-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-8-12 EXCEPTIONS. This chapter shall not apply to the following:

1. A vehicle in an enclosed building.

2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.

3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-8-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

|       |                         |        |  |
|-------|-------------------------|--------|--|
| 4-1-1 | Definitions             | 4-1-8  | At Large Prohibited                            |
| 4-1-2 | Annual License Required | 4-1-9  | Animal Nuisances                               |
| 4-1-3 | License Fees            | 4-1-10 | Impounding                                     |
| 4-1-4 | Delinquency             | 4-1-11 | Dangerous Animals                              |
| 4-1-5 | License Tags            | 4-1-12 | Keeping a Vicious Animal                       |
| 4-1-6 | License Records         | 4-1-13 | Filing Complaints and Administrative Procedure |
| 4-1-7 | Immunization            |        |  |

4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. The term "dogs" shall mean both male and female animals of the canine species whether altered or not.
2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
3. The term "owner" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring an animal.

4-1-2 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of three (3) months shall procure a dog or cat license from the City Clerk-Treasurer on or before the first day of January of each year.
2. Such license may be procured after January 1 and at any time for a dog or cat which has come into the possession or ownership of the applicant or which has reached the age of three (3) months after said date.
3. The owner of a dog or cat for which a license is required shall apply to the clerk on form provided by the Clerk.
4. The form of application shall state the breed, sex, age, color, markings, and name if any, of the dog or cat, and the address of the owner. The applications shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog or cat shall be vaccinated.
5. All licenses shall expire on December 31 of the year following the date of issuance.

4-1-3 LICENSE FEES. The annual license fee shall be as follows:

1. For the first animal: \$ 10.00
2. For second and subsequent animals: \$ 5.00 each

4-1-4 DELINQUENCY. All license fees shall become delinquent on the second day of January of the year in which they are due and a delinquent penalty of one (\$1.00) dollar per month shall be added to each unpaid license on or after said date.

4-1-5 LICENSE TAGS. Upon receipt of the application and payment of the license fee, the City Clerk shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the animal. The City Clerk shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the animal for which the license is issued. A license issued for one dog or cat shall not be transferable to another dog or cat. Upon expiration of the license, the owner shall remove said tag from the dog or cat.

Any animal found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

4-1-6 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for license.
2. The description of the dog or cat as specified in the application, together with the name of the owner of the dog or cat.
3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be re-vaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

4-1-7 IMMUNIZATION. All dogs six and cats (6) months or older shall be vaccinated against rabies. It shall be a violation of this Ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.

(Code of Iowa, Sec. 351.33)

4-1-8 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-9 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

2. Causes unsanitary, dangerous or offensive conditions.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Code of Iowa, Sec. 657.1)

4-1-10 IMPOUNDING.

1. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of Sections 4-1-2, 4-1-7, 4-1-8 or 4-1-9 of this chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

2. Owners of licensed dogs shall be notified within two (2) days that upon payment of impounding fees *plus* cost of food and care in a reasonable amount, the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of in a humane manner as directed by the City Council or the boarding facility.

3. Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-7. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council or the boarding facility.

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor, City Council or duly authorized representative.

(Code of Iowa, Sec. 351.39)

5. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec. 351.39)

4-1-11 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.

2. Definitions. A dangerous animal is:

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. The following are animals which shall be deemed to be dangerous animals per se:

- (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- (2) Wolves, coyotes, and foxes;
- (3) Badgers, wolverines, weasels, skunks and mink;
- (4) Raccoons;
- (5) Bears;
- (6) Monkeys, chimpanzees, and apes;
- (7) Alligators and crocodiles;
- (8) Scorpions; gila monsters;
- (9) Snakes that are venomous or constrictors;

(10) Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

(11) Any cross breed of such animals which have similar characteristics of the animals specified above.

c. Any animals declared to be dangerous by the City Council.

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

a. 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, and has obtained the written approval of the City Council.

4-1-12 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. An animal is deemed to be vicious when it has attacked, injured, or bitten any person without provocation or has exhibited the propensity to attack, injure, or bite persons or other domesticated animals, unprovoked, and such propensity is known to the owner or to reasonably have been known to the owner thereof.

1. An animal is deemed vicious under the following circumstances:
  - a. Has bitten or clawed a person without provocation on two separate occasions within a twelve (12) month period.
  - b. Did bite or claw a person, without provocation, causing injuries above the shoulders of a person.
  - c. Has attacked any domestic animal, without provocation, on more than two (2) separate occasions during the life of the animal.
  - d. Has killed any domestic animal, without provocation, while off the property of the attacking animal's owner.
  - e. Has bitten another animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, or injury to the other animal or human.

4-1-13 FILING COMPLAINTS AND ADMINISTRATIVE PROCEDURE. All complaints, written and verbal, will be directed to the Superintendent or other city official for assessment and upon determination of a violation of these animal control regulations procedures will be followed:

1. At the discretion of the Superintendent, City Official, or City Council, this matter may be handled under Title I Chapter 3 "Penalty" provisions within the City Code of Whittemore as set forth herein at any time during this administrative process.

2. Administrative Actions.

- a. Upon receiving the first verified complaint the city official will issue a written notice to the owner of the animal in question. There will be no fine for the first verified complaint.

- b. A second verified complaint will result in an administrative fine of \$50.00 assessed to the owner. Failure to pay said fine when due shall allow the city officials to assess the fine to the public utilities of the owner or pursue further enforcement options allowed under the City Code or state law.

- c. A third verified complain will result in an administrative fine of \$100.00 assessed to the owner. Failure to pay said fine when due shall allow the city officials to assess the fine to the public utilities of the owner or pursue further enforcement options allowed under the City Code or state law.

Subsequent verified complaints will result in the impounding of the animal or animals determined to be in violation of any and all sections of this ordinance. Written notice shall be given to the owner within three (3) days of impoundment, if the owner is known, whereupon the animals may be recovered by the owner upon payment of the fines, impounding, boarding, and other costs. If the owner does not redeem the animal or animals within seven (7) days of the date of notice or if the owner cannot be located within seven (7) days of impoundment, then the animal may be humanely destroyed or otherwise disposed of in accordance with the law.

## TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 1 LIBRARY SERVICES

|       |                            |       |                                       |
|-------|----------------------------|-------|---------------------------------------|
| 5-1-1 | Public Library             | 5-1-6 | Power to Contract with Others for the |
| 5-1-2 | Library Trustees           |       | Use of the Library                    |
| 5-1-3 | Qualifications of Trustees | 5-1-7 | Non-Resident Use of the Library       |
| 5-1-4 | Organization of the Board  | 5-1-8 | Library Accounts                      |
| 5-1-5 | Powers and Duties          | 5-1-9 | Annual Report                         |

5-1-1 PUBLIC LIBRARY. There is hereby established a free public library for the City, to be known as the Whittemore Public Library.

5-1-2 LIBRARY TRUSTEES. The Board of Trustees of the Whittemore Public Library, hereinafter referred to as the board, consists of five (5) members are required to be residents of the City and two (2) members are required to be residents of Kossuth County living outside of the City limits. All resident members are to be appointed by the Mayor with the approval of the Council. All nonresident members are to be appointed by the Mayor with the approval of the Kossuth County Board of Supervisors.

5-1-3 QUALIFICATIONS OF TRUSTEES. All of the resident members of the board shall be bona fide citizens and residents of the City. The non-resident members of the board shall be bona fide citizens and residents of Kossuth County living outside of the City limits. All members shall be over the age of eighteen (18).

5-1-4 ORGANIZATION OF THE BOARD.

1. Terms of office. All appointments to the board shall be for six (6) years, except to fill vacancies. Board members will have the option to serve two (2) six (6) year terms. Each term shall commence on July 1<sup>st</sup>. Appointments shall be made every year for one-fifth the total number in order to stagger the terms.

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from the City or if said trustee is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the City. Vacancies in the board shall be filled by the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.

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

5-1-5 POWERS AND DUTIES. The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary.

2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.

3. To direct and control all the affairs of the library.

4. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.

5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 35C, Code of Iowa.

6. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the board.

7. To authorize the use of the library by non-residents of the City and to fix charges therefor.

8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with Ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.

9. To have exclusive control of the expenditure of all funds allocated for library purposes by the City Council, and of all monies available by gift or otherwise for the erection of library buildings, and of all other monies belonging to the library including fines and rentals collected, under the rules of the board.

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

(Code of Iowa, Sec. 392.5)

11. To keep a record of its proceedings.

12. To enforce the performance of conditions of gifts, donations, devises and bequests accepted by the City. The board shall enforce performance by taking action against the City Council.

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

5-1-6 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

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

(Code of Iowa, Sec. 336.18(1))

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

(Code of Iowa, Sec. 336.18(2)(a and b))

5-1-7 NON-RESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by non-residents in any one or more of the following ways:

1. By lending the books or other materials of the library to non-residents on the same terms and conditions as to residents of the City, or upon payment of a special non-resident library fee.

2. By establishing depositories of library books or other materials to be loaned to non-residents.

3. By establishing bookmobiles or a traveling library so that books or other library materials may be loaned to non-residents.

4. By establishing branch libraries for lending books or other library materials to non-residents.

5. By entering into agreements with other libraries to allow lending of books or other library materials to non-residents.

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City Council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the board, signed by its president and secretary. The warrant writing officer is the City Clerk.

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

Editor's Note: The Council may retain the power to hire, discharge, set salaries, expend funds unless the library board was in existence prior to July 1, 1974. (See Sections 5-1-5(4), 5-1-5(5), 5-1-5(9) and 5-1-8. Any proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the City. See Code of Iowa, Sec. 392.5

## TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 2 PARK REGULATIONS

5-2-1 Purpose

5-2-2 Use of Drives Required

5-2-3 Fires

5-2-4 Littering

5-2-5 Camping Areas

5-2-1 PURPOSE . The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

5-2-2 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or drive any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

5-2-3 FIRES. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

5-2-4 LITTERING. No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

5-2-5 CAMPING AREAS. No person shall camp in any portion of a park except in portions prescribed or designated by the Council.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

|       |  |       |                                 |
|-------|--|-------|---------------------------------|
| 6-1-1 | Definitions  | 6-1-4 | Emergency and Temporary Parking |
| 6-1-2 | Location of Mobile Homes   | 6-1-5 | Traffic Code Applicable         |
| 6-1-3 | Special Permits for Location of<br>Mobile Homes Outside Mobile Home<br>Parks | 6-1-6 | Building Requirements           |
|       |  | 6-1-7 | Mobile Home Hookups             |
|       |  | 6-1-8 | Roof Pitch Required             |

6-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. "Factory-built structure" includes the terms "mobile home," "manufactured home", and "modular home."

(Code of Iowa, Sec. 103A.3(8))

2. "Manufactured home" means a factory-built structure built under authority of 42 U.S.C. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

(Code of Iowa, Sec. 435.1(3))

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobile homes were constructed before June 15, 1976.

(Code of Iowa, Sec. 435.1)

4. "Mobile home park" shall mean any site, lot, field or tract of land upon which three or more occupied mobile homes, manufactured homes, or modular homes or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

(Code of Iowa, Sec. 435.1(4))

5. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.

(Code of Iowa, Sec. 435.1(7))

6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council may issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of six months but upon expiration of a special permit, reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.

6-1-4 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of twenty (20) hours shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-5 TRAFFIC CODE APPLICABLE. The owner of a mobile home park may elect to have City traffic provisions of the City Code apply to real property in the mobile home park and any person located on the real property. The owner of a mobile home park may waive this right by filing a waiver with the County Recorder.

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent foundation.  
(Code of Iowa, Sec. 435.26)

6-1-7 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park.  
(Code of Iowa, Sec. 322B.3)

6-1-8 ROOF PITCH REQUIRED. All residential structure shall provide a pitch on the roof of at least four (4") inches change in elevation for every twelve (12") inches of lineal distance.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

|       |                                 |       |                                    |
|-------|---------------------------------|-------|------------------------------------|
| 6-2-1 | Definitions                     | 6-2-5 | Use of the Public Sewers           |
| 6-2-2 | Use of Public Sewers Required   | 6-2-6 | Protection from Damage             |
| 6-2-3 | Private Sewage Disposal         | 6-2-7 | Powers and Authority to Inspectors |
| 6-2-4 | Building Sewers and Connections | 6-2-8 | Penalties                          |

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(IAC 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. "Sewer" shall mean a pipe or conduit for carrying sewage.

17. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Whittemore or the Superintendent's authorized deputy, agent, or representative.

20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

#### 6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is within two hundred fifty (250) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f)) (IAC 567-69.3(3))

#### 6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Within the Corporate Limits of the City of Whittemore, there shall be no private sewage disposal systems.

#### 6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

There shall be a separate connection charge of one hundred fifty (\$150) dollars payable to the City for connection to the sanitary sewer system.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

#### Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

#### Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

#### Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, 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. Applications may be canceled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

- a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
- b. Non-payment of bills.
- c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater 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. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
- c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public

agencies with jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-2-6 PROTECTION FROM DAMAGE.

1. No unauthorized person shall willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### 6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation,

measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### 6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

#### 6-2-9 SURFACE RUNOFF AND GROUNDWATER DISCHARGE TO SANITARY SEWER.

##### 1. Water Discharge into Sanitary Sewer System.

The discharge of water from any roof, surface, ground, sump pump, footing tile or swimming pool or other natural precipitation into the city sanitary sewer collection system has the potential to cause damage to residential property and overload the Wastewater Treatment Facility (WWTF). Such damage can be caused by the backup of sewage into the living quarters of residential homes creating a potential health hazard and exceeding the capacity of the WWTF. The City, therefore, finds it essential to the maintenance of health, minimization of damage to property and to maintain the life and capacity of the WWTF that the provisions of this section be strictly enforced to avoid and minimize these problems in the future.

##### 2. Restrictions and Definitions.

No water from any roof, surface, ground, sump pump, footing tile, swimming pool or other natural precipitation shall be discharged into the sanitary sewer collection system. Dwellings, including new housing construction or houses under construction, and other buildings and structures which require,

because of the infiltration of water into basements, crawl spaces and the like, a seepage collection system, or “beaver drain” or sump pump system to discharge water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer collection system. A permanent installation shall be one which provides for a year-round discharge connection to the city subdrain/storm sewer system. If there is no subdrain available, the surface discharge point shall be located no closer than four feet from the curb or as approved by the city. It shall be without valving or quick connections for altering the path of discharge and, if connected to the city subdrain/storm sewer line, include a check valve.

### 3. Sump, Pump, and Rigid Pipe: Method of Installation.

- a. A discharge pipe shall be installed through the outside foundation wall of the building. The discharge shall be directed away from the foundation wall.
- b. No discharge shall be directed so as to impact neighboring properties or any sidewalks.
- c. Any plumber or contractor who knowingly installs a sump, pump and/or piping that is not in conformance with this ordinance shall be liable to the City for all damages that arise and be subject to the penalties set forth in Title 1 Chapter 3 of this Code.

### 4. Disconnections Ordered.

Any person, firm or corporation having a roof, surface, ground, sump pump, footing tile or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in a manner as approved by City staff or his/her representative.

### 5. Inspections.

Every person, firm or corporation owning improved real estate or contractors/builders who are building a house or other structure within the City of Whittemore that discharges into the city's sanitary sewer system or on the ground shall allow an employee of the city or their designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system.

Any property owner or contractor/builder of a new home refusing to allow their property to be inspected within thirty (30) days of the date city employees or their designated representatives have requested admittance to the property, shall immediately become subject to the daily surcharge noted in 6-2-9(8) unless the property owner or contractor/builder of a new home pays the monthly surcharge in lieu of inspection as noted in 6-2-9(8). Any owner of property or contractor/house builder found to violate 6-2-9 shall make the necessary changes to comply with 6-2-9 and furnish proof of the changes to the city within thirty (30) days from the date the City delivered notice of the violation to the owner or contractor/builder.

### 6. Future Inspections.

At any future time, if the city has reason to suspect that an illegal connection may exist in a building or on the premises, the owner, after written notice, shall allow city representatives to inspect the building and premises.

## 7. Penalties and Enforcement.

Whoever shall violate any provision 6-2-9 for which no specific penalty is provided may be punished as set forth below.

a. Any person found to be violating any provision of 6-2-9, shall be served by the city with written notice stating the nature of the violation and providing at least thirty (30) days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

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

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

d. In addition to the penalties noted above, a civil surcharge of fifty dollars (\$50) per month shall be imposed by invoice and/or added to every sewer billing mailed to tenants or property owners of existing structures or to the contractor/builder of a new house which are found not to be in compliance herein. The surcharge will be levied monthly against those properties found not to be in compliance with 6-2-9 until the property has been certified by the City staff or his/her her representative that the property is in compliance. The surcharge will be levied against the tenant or property owner of existing structures and/or contractor/builder of a new house on the thirty-first day after notice of the violation has been provided to the tenant/owner/contractor/builder. Should a person who has been notified of noncompliance and has corrected that noncompliance, be found out of compliance with 6-2-9 a second time, said person will be fined one hundred dollars (\$100) a month commencing upon the day said person is found to be in noncompliance. There shall be no grace period for bringing the system into compliance a second time.

e. A property owner or the contractor/builder of a new home can pay a monthly surcharge of fifty dollars (\$50) in order to avoid a viewing of the property to determine if the property is engaged in an illegal discharge into the sanitary sewer system. This surcharge shall commence on the first day of the month following the month when either the property owner or contractor/builder provides written notice to the City of their intent to act pursuant to this provision or thirty (30) days after the City provides written notice to the property owner or contractor/builder of the need to permit access for inspection and the property owner or builder/contractor fails to permit inspection regardless of whether written notice is given to the City. This surcharge shall continue to accrue as long as the property owner or contractor/builder continues to own the property without providing the information noted above. This surcharge is intended to offset the added cost associated with having the wastewater treatment facility process clear water unnecessarily when the status of a property's connection to the sanitary sewer system cannot be ascertained.

f. For those tenants or property owners of existing structures or the contractor/builder of a new house which has not corrected the non-compliance for a period of one (1) year from the date of the initial surcharge billing, the surcharge shall increase to one-hundred (\$100) dollars per month to be added to the sewer billing.

For those tenants or property owners of existing structures or the contractor/builder of a new house which have paid the fifty (\$50) dollar per month surcharge to avoid the viewing/inspection of the property, the surcharge shall be increased to one hundred (\$100) dollars per month. This fee shall commence one (1) year after the initial surcharge billing started.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 UTILITIES - WATER SYSTEM

|       |                                 |        |                                    |
|-------|---------------------------------|--------|------------------------------------|
| 6-3-1 | Enforcement                     | 6-3-9  | Installation of Water Service Pipe |
| 6-3-2 | Adoption of State Plumbing Code | 6-3-10 | Consumer Connect Fee               |
| 6-3-3 | Approval Required               | 6-3-11 | Property Owner's Responsibility    |
| 6-3-4 | Mandatory Connections           | 6-3-12 | Excavations                        |
| 6-3-5 | Permit                          | 6-3-13 | Inspection and Approval            |
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| 6-3-7 | Making the Connection           | 6-3-15 | Water Meters                       |
| 6-3-8 | Tapping Water Mains             | 6-3-16 | Meter Accuracy and Test            |

6-3-1 ENFORCEMENT. The Superintendent of Public Utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

6-3-2 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

6-3-3 APPROVAL REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a plumber approved by this City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-3-4 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 supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Clerk. The application for the permit shall be filed with the Clerk on blanks furnished by the 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 general uses of the water. No different or additional uses shall be allowed except by written permission of the Clerk. The Clerk shall issue the permit, bearing the Clerk's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Clerk may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-6 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground. It shall be unlawful for any person except the water superintendent to turn water on at the curb stop.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-7 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

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

6-3-8 TAPPING WATER MAINS. All taps and connections to the mains of the city shall be made by and/or under the direction and supervision of waterworks personnel and constructed in accordance with the following:

1. Independent Services. No more than one house building or premise shall be supplied from one tap unless special written permission is obtained from the superintendent and unless provision is made so that each house, building or 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 inch tap. Where a larger connection is desired, two (2) or more small taps or saddles shall be used, as the superintendent shall order. All taps in the mains shall be made at or near the top of the pipe at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation 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 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 clerk in such form as the clerk shall require.

6-3-9 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight type K copper or approved schedule 40 P.V.C. Pipes must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

6-3-10 CONSUMER CONNECT FEE. There shall be required from every consumer or prospective consumer served, a twenty-five (\$25) dollar connect or reconnect fee, if water was turned off by previous customer.

6-3-11 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

6-3-12 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months 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 Superintendent.

6-3-13 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-3-14 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and any bond required of the plumber by Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property

taxes.

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

6-3-15 WATER METERS. All water furnished consumers shall be measured through meters furnished by the City in accordance with the following:

1. Fire Sprinkler Systems - Exception. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

2. Location of Meters. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

3. Meter Setting. The property owner shall have provided all necessary piping and fittings for proper setting of the meter including a globe type valve on the discharge side of the meter. Meter pits may be used only upon approval of the superintendent and of a design and construction approved by him.

4. Meter Repairs. Whenever a water meter 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 or replacement. If a meter fails due to becoming frozen, the property owner shall be responsible for the cost of a replacement meter and the cost of labor to install.

5. Right of Entry. The superintendent shall be permitted to enter the premises of any consumer at any reasonable time to remove or change a meter.

6. Meter Installation Fee. There shall be a fee consisting of the meter, and installation costs, charged to the property owner for each new installation of a water meter.

6-3-16 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of five (5%) percent or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than six (6) months. If the meter is found to be accurate or slow less than five (5%) percent fast, the patron shall pay the reasonable costs of the tests.

6-3-17 INSTALLATION OF SERVICE LINE. The City shall install and maintain at its expense that portion of the service from the main to and including the curbstop at the lot or easement line, including the necessary tap and fittings. The customer shall install and maintain at its expense that portion of the service from said curbstop at the lot or easement line, to the customer's premises, including a stop and waste cock at the end of the customer's service. The municipality shall determine the size and kind of service to be installed.

6-3-18 RESPONSIBILITY FOR SERVICE LINE. The City shall be responsible to maintain that portion of the water system, including service lines from the main to and including the curbstop at the lot or easement line. Customers and/or property owners shall be responsible to maintain from the lot or easement line to the meter at the structure.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 UTILITIES - REFUSE COLLECTION

|       |                      |       |  |
|-------|----------------------|-------|--|
| 6-4-1 | Definitions          | 6-4-6 | Burning of Refuse                        |
| 6-4-2 | Administration       | 6-4-7 | Regulation of Burning Within City Limits |
| 6-4-3 | Storage              | 6-4-8 | Refuse Other Than Garbage                |
| 6-4-4 | Collections          | 6-4-9 | Sanitary Landfill                        |
| 6-4-5 | Necessity of Permits |       |  |

6-4-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Container Specifications". Waste storage containers shall comply with the following specifications:

Each premise shall be required to bag all solid waste materials, and the following criteria shall apply:

- a. Only the color-coded "City of Whittmore" bags will be picked up.
- b. Any item not enclosed in the approved bags will be assessed a surcharge dependent upon the specific item.
- c. No appliances shall be collected.

6-4-2 ADMINISTRATION. Administration of this chapter shall be by the City Council or such employee designated by the Council.

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

6-4-3 STORAGE. All garbage must be drained and that accumulated from dwellings must be placed in an approved "City of Whittmore" bags. All rubbish shall be placed in bags except as otherwise provided.

6-4-4 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

6-4-5 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-4-6 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-4-7 REGULATION OF BURNING WITHIN CITY LIMITS.

1. Purpose. The purpose of this ordinance is to provide reasonable rules and regulations for burning within the city limits of Whittemore, Iowa, and to establish specific guidelines of same for the protection, safety, and general welfare of the public in the City.

2. Definitions. For the purpose of this ordinance, the following terms are defined:

a. "Person" includes any individual, firm, corporation, partnership, trust or any other organized group.

b. "Hazardous or Non-Organic Waste" is any material, other than "yard wastes" that will take fire and burn, including rubbish, trash, lumber containing nails or staples, paper, cardboard, cartons, or discarded materials from commercial, industrial or domestic or agricultural operations, furniture, tires, plastic or other non-organic material.

c. "Refuse" in general is construed to mean waste materials from normal household or living conditions and business operations, including but not limited to wastes from the preparation, cooking and consumption of food (exclusive of dishwater and waste water) condemned or spoiled food products, and all wastes from the handling, storage, preparation and sale of produce and meat, wood, chips, shavings, paper (including newspaper), metals, bottles, cans, household cleaning products or their containers and by-products, soil, gravel, manure, stones, brick, crockery, ashes, cinders, and other non-combustible materials.

d. "Yard Waste" means organic debris (such as leaves, twigs, tree limbs, bark or branches) which is produced as a part of yard development or maintenance.

e. "Recreational Fire" means any fire used for the purposes defined in this ordinance.

3. Prohibitions. No person shall allow or be permitted to have on their property a burn barrel used as a container for burning of yard wastes, hazardous or non-organic waste, or refuse where the products of combustion are emitted into the open air without passing through a chimney or stack, except for recreational fires and seasonal (spring and fall) burning of yard wastes, which shall be allowed as provided for in this ordinance.

4. Exemptions.

a. Seasonal (Spring and Fall) Burning of Yard Waste: Controlled fires for the purpose of disposing of organic debris. It shall be lawful to burn such yard waste as described in this ordinance on private property, as long as the yard wastes are dry enough to burn as rapidly and completely as possible. Consideration must be given to surrounding residents before any burning is initiated.

All fires must be attended by a competent person at all times, and an outside water source must be readily available.

No burning shall be permitted in any curb or gutter, public right of way, public easement area, city parking area, or on any paved or surfaced street.

b. Recreational Fires. Open fires for cooking, heating, camping, recreation or ceremonies, provided said fires complies with the limits for emission of visible air contaminants established by the Iowa State Department of Environmental Quality. All such fires must use only charcoal, clean dry, untreated wood, natural gas or propane. All untreated wood shall be no longer than three (3) feet in length. All such fires shall be contained within a non-combustible device, structure or fire ring designed for the purpose of containing a fire no larger than four (4) feet in diameter or four (4) feet square. All of the said devices must have adequate separation from combustibles and vegetation. Fires are to be kept to a small flame height which shall not exceed three (3) feet. All such fires must be attended by a competent person at all times, and an outside water source must be readily available. The City Superintendent or his designee shall have the authority to order any fire extinguished if such fire is determined to constitute a hazardous condition or creates a nuisance.

c. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire-fighting methods are permitted, provided that when structures are to be utilized, the Department of Natural Resources of the State of Iowa has been notified in writing, prior to the time when such action is to commence.

d. Debris from Damage Caused by a Storm Event. Trees, limbs, branches, and any leaves adhering to such materials may be burned at any site approved by the City Superintendent or his designee, under the direction of the Fire Chief, during such times as the Mayor may declare a "Storm Damage Disposal Emergency" period. The site authorized and designated for such burning shall not be located in a residential area. The period of time for a disposal shall be specified by the Mayor and City Council.

6-4-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-4-9 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 5 UTILITIES - BILLING CHARGES**

|       |                                 |        |  |
|-------|---------------------------------|--------|--|
| 6-5-1 | Utility Defined                 | 6-5-10 | Refuse Collection Rates  |
| 6-5-2 | Districts                       | 6-5-11 | Rate of Sewer Rent and Manner of Payment   |
| 6-5-3 | Disposition of Fees and Charges | 6-5-12 | Determination and Payment of Sewer Rent From Premises With Private Water Systems |
| 6-5-4 | Billing, Penalty                | 6-5-13 | Electric Rates   |
| 6-5-5 | Discontinuing Services, Fees    | 6-5-14 | Natural Gas Rates  |
| 6-5-6 | Residential Rental Property     |        |  |
| 6-5-7 | Customer Guarantee Deposits     |        |  |
| 6-5-8 | Water Rates                     |        |  |
| 6-5-9 | Rates Outside the City          |        |  |

6-5-1 UTILITY DEFINED. For use in this chapter, utility is the electric, natural gas, sewer, water, and refuse collection systems operated by the City.

6-5-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Whittemore, Iowa.

6-5-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-5-4 BILLING, PENALTY. Utility bills shall be shall be mailed by the 5<sup>th</sup> day of the following month of service. Bills shall be due and payable by the twentieth (20<sup>th</sup>) day of that month. Payment shall be made to the City Clerk. Bills shall become delinquent after the twentieth (20<sup>th</sup>) of the month in which due and bills paid after said day shall have added a penalty of ten (10%) percent of the amount of the bill for all utilities billed. When the twentieth (20<sup>th</sup>) falls on Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.

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

6-5-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid by the twentieth (20<sup>th</sup>) of the month, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

a. The City Clerk shall send by ordinary mail, a disconnect notice within two (2) days after the delinquency, stating that the customer shall have twelve (12) days to pay the delinquent bill and providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. Before service is discontinued, the Clerk shall post or have posted, a 24 hour notice that the service will be discontinued. A fee of \$35.00 per address, per trip shall be added to the delinquent bill for the notice payable to the City Clerk at City Hall. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, an additional fee of \$75.00 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.  
(Code of Iowa, Sec. 384.84(2))

2. Every customer of Whittemore Municipal Utilities shall pay a \$75.00 reconnect fee for utility services disconnected due to non-payment of said customer's utility account.

3. A lien shall not be certified to the County Treasurer for collection unless thirty days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner or property lessor.  
(Code of Iowa, Sec. 384.84(3))

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.  
(Code of Iowa, Sec. 384.84(3)(a)(3))

6-5-6 RESIDENTIAL RENTAL PROPERTY. Residential rental property where a charge for any of the services of electricity, natural gas, water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges. A City utility may require a deposit not exceeding the highest combined utility bill of the preceding twelve (12) month period, of all utilities as listed above as applicable, to be paid to the City. Upon receipt, the City shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall return the deposit, within ten days, if the charges for the services of electricity, natural gas, water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

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

6-5-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers. Such deposit shall be based on the highest utility bill over a twelve (12) month period for the owner or renter of the property. Deposits of customers having established acceptable credit records for one (1) year shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.  
(Code of Iowa, Sec. 384.84(1))

6-5-8 WATER RATES. Water service customers of Whittemore Municipal Utilities shall be furnished at the following monthly rates, which include user fees, consumption charge, and meter charge:

1. User Fee.

a. A flat water user fee of \$16.00 per month, regardless of the amount of the consumption by the customer, shall be assessed to all customers living within the city limits. Such amount is necessary to retire the indebtedness, operation and maintenance, and reserve necessary for maintaining the water system.

b. A flat water user fee of \$20.00 per month, regardless of the amount of the consumption by the customer, shall be assessed to all customers living outside the city limits. Such amount is necessary to retire the indebtedness, operation and maintenance, and reserve necessary for maintaining the water system.

2. Consumption Charge. The rate shall be applicable to the total gallons metered and used by each customer per month:

a. Residential metered rates shall be at the following:

|                         |            |                    |
|-------------------------|------------|--------------------|
| The first 1,000 gallons | \$ 8.081   | (Minimum Bill).    |
| The next 6,000 gallons  | @ \$ 1.889 | per 1,000 gallons. |
| The next 8,000 gallons  | @ \$ 1.597 | per 1,000 gallons. |
| The next 15,000 gallons | @ \$ 1.307 | per 1,000 gallons. |
| The next 20,000 gallons | @ \$ 1.162 | per 1,000 gallons. |
| All over 50,000 gallons | @ \$ 1.016 | per 1,000 gallons. |

b. Commercial metered rates shall be at the following:

|                         |            |                    |
|-------------------------|------------|--------------------|
| The first 1,000 gallons | \$ 9.245   | (Minimum Bill).    |
| The next 6,000 gallons  | @ \$ 1.889 | per 1,000 gallons. |
| The next 8,000 gallons  | @ \$ 1.597 | per 1,000 gallons. |
| The next 15,000 gallons | @ \$ 1.307 | per 1,000 gallons. |
| The next 20,000 gallons | @ \$ 1.162 | per 1,000 gallons. |
| All over 50,000 gallons | @ \$ 1.016 | per 1,000 gallons. |

c. Whittemore Housing Units. The minimum rate shall be \$8.081 for 1,000 gallons per apartment per month. All excess water at each housing unit (total usage on meter minus 1,000 gallons for each apartment therein) shall be figured using the residential rate chart listed in paragraph (a) of this subsection.

3. Meter Charge:

Residential - \$14.00 plus applicable taxes per meter, per month

Commercial - \$14.00 plus applicable taxes per meter, per month

6-5-9 RATES OUTSIDE THE CITY. Water service shall be provided any consumer located outside the corporate limits of the City which the City has agreed to serve at the rates provided in 6-5-8. No such consumer, however, will be served unless he/she shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the council.

6-5-10 REFUSE COLLECTION RATES. It shall be mandatory for all premises (residential, rural, business and apartment units) to pay the minimum fee as specified in 6-5-10 (2)(a) whether the service is used or not.

1. Container Specifications. Waste storage containers shall comply with the following specifications:

Each premise shall be required to bag all solid waste materials, and the following criteria shall apply:

- a. Only the color-coded "City of Whittemore" bags will be picked up.
- b. Any item not enclosed in the approved bags will be assessed a surcharge dependent upon the specific item.
- c. No appliances shall be collected.

2. Schedule of Fees. The fees for solid waste collection and disposal service and recycling, used or available, are:

a. All premises (residential, rural, business and apartment units): \$14.98 per month for monthly refuse collection service and the collection consisting of approved color-coded "City of Whittemore" bags. Approved bags will consist of two (2) sizes, and will be as follows:

13 gallon (40 pound limit) - \$0.50 each

33 gallon (40 pound limit) - \$1.00 each

Current Commercial/Business recycling charges shall apply to individual businesses who indicate they wish to participate in the once-a-month Commercial Collection (Recycling) Program.

b. Color-coded "City of Whittemore" bags will be available for purchase at City Hall and designated local businesses during regular business hours.

c. Dumpsters rented on a "per dump" basis by residents for small construction, clean out or other occasional out-of-the-ordinary projects to be charged \$50.00 per dump.

d. Commercial Dumpsters: \$35.00 per month, with extra dumps billed as determined by the Director of Public Works and approved by the City Council.

e. Large Commercial and/or Industrial rates set by the Council as follows:

Balchem/Albion Labs (509-515 Broad Street): \$500.00 per week  
Whittemore Feeders (106 Fifth Street): \$75.00 per week

f. Any item collected that is not enclosed in an approved bag will be assessed a surcharge determined by the individual item.

6-5-11 RATE OF SEWER RENT AND MANNER OF PAYMENT. The rate of sewer rent shall be a Base/Minimum Bill of thirty (\$30.00) dollars per month plus a usage charge of two dollars and fifty cents (\$2.50) per 1,000 gallons of water consumption (all usage) for each premises. The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

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

6-5-12 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-8 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-4.

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

6-5-13 ELECTRIC RATES. Rates for electric service are specified in 7-1-1 and subject to the same conditions and requirements contained in 6-5-4, 6-5-5, 6-5-6 and 6-5-7.

6-5-14 NATURAL GAS RATES. Rates for natural gas are specified in 7-2-2 and subject to the same conditions and requirements contained in 6-5-4, 6-5-5, 6-5-6 and 6-5-7.

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 STREET CUTS AND EXCAVATIONS

- |       |                            |       |                             |
|-------|----------------------------|-------|-----------------------------|
| 6-6-1 | Excavation Permit Required | 6-6-4 | Backfilling and Restoration |
| 6-6-2 | Application for Permit     | 6-6-5 | Rules and Regulations       |
| 6-6-3 | Safety Measures            |       |                             |

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-6-3 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-6-4 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install

new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Superintendent is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-6-5 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 7 SIDEWALK REGULATIONS

|        |  |        |   |
|--------|--|--------|---|
| 6-7-1  | Purpose                                    | 6-7-12 | Inspection and Approval                           |
| 6-7-2  | Definitions                                | 6-7-13 | Barricades and Warning Lights                     |
| 6-7-3  | Cleaning Snow, Ice, and Accumulations      | 6-7-14 | Interference with Sidewalk Improvements           |
| 6-7-4  | Maintenance Responsibility                 | 6-7-15 | Special Assessments for Construction and Repair   |
| 6-7-5  | Liability of Abutting Owner                | 6-7-16 | Notice of Assessment for Repair or Cleaning Costs |
| 6-7-6  | Ordering Sidewalk Improvements             | 6-7-17 | Hearing and Assessment                            |
| 6-7-7  | Repairing Defective Sidewalks              | 6-7-18 | Billing and Certifying to County                  |
| 6-7-8  | Notice of Inability to Repair or Barricade | 6-7-19 | ADAAG Compliance                                  |
| 6-7-9  | Standard Sidewalk Specifications           |        |   |
| 6-7-10 | Permits for Construction or Removal        |        |   |
| 6-7-11 | Failure to Obtain Permit; Remedies         |        |   |

6-7-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-7-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
- g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-7-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Auditor for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))

6-7-4 MAINTENANCE RESPONSIBILITY. In addition to the abutting property owner's duty to remove snow and ice as described in the prior section, upon order and notice as provided in sections 6-7-6 and 6-7-7, The abutting property owner or owners shall be responsible for the repair, replacement, or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way, except that the abutting owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

(Code of Iowa, Sec. 364.12(2c); *Splittergerber v. Bankers Trust Co.*, 8 N.W.3d 135 (Iowa 2024))

6-7-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in, or the condition of said sidewalk based on either the failure of the abutting owner to properly repair, replace, reconstruct, or otherwise maintain said sidewalk after being properly ordered and notified to do so, or the failure of the abutting owner to remove snow and ice regardless of notice from the City to do so, the City may notify in writing the said abutting owner that it claims the injury was caused by their said negligence. 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 condition 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; *Splittergerber v. Bankers Trust Co.*, 8 N.W.3d 135 (Iowa 2024))

6-7-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-7-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

6-7-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-7-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works and Utilities.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works and Utilities on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works and Utilities, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-7-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works and Utilities. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-7-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-7-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Works and Utilities shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works and Utilities shall indicate this on both copies of the permit.

6-7-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-7-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is 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 or warning device provided by this chapter.

6-7-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-7-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-7-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-7-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-7-19 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 TREES

|                             |                                       |
|-----------------------------|---------------------------------------|
| 6-8-1 Purpose               | 6-8-5 Assessment                      |
| 6-8-2 Definitions           | 6-8-6 Trimming Trees to be Supervised |
| 6-8-3 Planting Restrictions | 6-8-7 Removal of Trees                |
| 6-8-4 Duty to Trim Trees    | 6-8-8 Replacement of Trees            |

6-8-1 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by regulating and providing for the planting, care and removal of trees.

6-8-2 DEFINITIONS. For use in this chapter, the following terms are defined:

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

2. "Superintendent" shall mean Superintendent of Public Works and Utilities or such other person as may be designated by the Council.

6-8-3 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:

1. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event that the curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

2. Spacing. Trees shall not be planted on the parking if it is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to the driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited Trees. No person shall hereinafter plant in any street, any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, or evergreens. All trees must be free of insects, disease, mechanical injury, and objectionable features at the time of planting.

6-8-4 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 ten (10) feet above the surface of the street and ten (10) feet above the sidewalks.

6-8-5 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.

6-8-6 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.

6-8-7 REMOVAL OF TREES. The Superintendent shall remove, on the order of the Council, any tree on the streets of the City which interferes with the making of improvements or with travel thereon. 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.

1. All trees within the public right-of-way are the property of the City of Whittemore. Removal of any city tree without written approval of the City Council is strictly forbidden and is a violation of this ordinance. In addition to penalties as specified in Title I, Chapter 3, of this Code, violators shall be responsible for damages and the cost of replacing the removed tree.

2. Authorization to remove City trees may be obtained by first submitting a completed application to the City Council. Applications may be obtained from the City Clerk. Upon inspection by the Council or its representatives, authorization may be granted for the following:

- a. The tree created a safety hazard.
- b. The tree is dead or diseased.
- c. The tree is designated a nuisance or undesirable species that provides fruit, sap or pods

etc.

6-8-8 REPLACEMENT OF TREES. When a tree is removed from the parking area or other public land, and it is not deemed by the City Council as undesirable or in conflict with approved plans for impending improvements in the location of the tree, the tree when removed shall be replaced by the property owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 PLANNING AND ZONING COMMISSION

|       |                                |       |                   |
|-------|--------------------------------|-------|-------------------|
| 6-9-1 | Planning and Zoning Commission | 6-9-4 | Compensation      |
| 6-9-2 | Term of Office                 | 6-9-5 | Powers and Duties |
| 6-9-3 | Vacancies                      |       |                   |

6-9-1 PLANNING AND ZONING COMMISSION. There shall be a city planning and zoning commission, hereinafter referred to as the commission, consisting of five (5) members, appointed by the Council, who shall be citizens of the city and qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold any elective office in the city government.

(Code of Iowa, Sec. 414.6 & 392.1)

6-9-2 TERM OF OFFICE. The term of office of the members of the commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

6-9-3 VACANCIES. If any vacancy shall exist on the commission caused by resignation, or otherwise, a successor for the residue of said term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

6-9-4 COMPENSATION. All members of the commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the council.

(Code of Iowa, Sec. 392.1)

6-9-5 POWERS AND DUTIES. The commission shall have and exercise the following powers and duties:

1. Selection of Officers. The commission shall choose annually at its first regular meeting one of its members to act as chairman and another as vice-chairman, who shall perform all the duties of the chairman during his absence or disability.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.5)

3. Annual Report. The commission shall each year make a report to the mayor and council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the

expenditure of funds, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

(Code of Iowa, Sec. 392.1)

5. Comprehensive Plan. It shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the city or any land outside thereof, which in the opinion of the commission bears relation to the comprehensive plan and shall bring to the attention of the council and may publish its studies and recommendations.

(Code of Iowa, Sec. 114.3)

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

(Code of Iowa, Sec. 414.3 & 392.1)

7. Comprehensive Plan: Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the city not less than seven (7) days before the date of the hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the commission carried by the affirmative vote of not less than two-thirds (2/3) of the members of the commission. After adoption of said plan by the commission an attested copy thereof shall be certified to the council and the council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the council, the said plan until subsequently modified or amended as hereinbefore authorized shall constitute the official city plan.

(Code of Iowa, Sec. 414.4, 414.6 & 392.1)

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

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

12. Zoning. The commission shall have and exercise all the powers and duties and privileges in preparing and amending the city zoning code as provided by Chapter 414 of the 1977 Code of Iowa.

(Code of Iowa, Sec. 414.6)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 NUMBERING OF BUILDINGS

|        |                          |        |                       |
|--------|--------------------------|--------|-----------------------|
| 6-10-1 | Buildings to be Numbered | 6-10-4 | Type of Numbers, Size |
| 6-10-2 | Numbering System         | 6-10-5 | Enforcement           |
| 6-10-3 | Mandatory Numbering      |        |                       |

6-10-1 BUILDINGS TO BE NUMBERED. All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-10-2 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the City Council.

6-10-3 MANDATORY NUMBERING. The placing of numbers is mandatory.

6-10-4 TYPE OF NUMBERS, SIZE. The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-10-5 ENFORCEMENT. If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 NAMING OF STREETS

|        |                             |        |                             |
|--------|-----------------------------|--------|-----------------------------|
| 6-11-1 | Naming New Streets          | 6-11-4 | Official Street Name        |
| 6-11-2 | Changing Name of Street Map | 6-11-5 | Revision of Street Name Map |
| 6-11-3 | Recording Street Names      |        |                             |

6-11-1 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

A. 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.

B. Ordinance. All street names, except streets named as part of a subdivision or platting procedure, shall be named by ordinance.

C. Planning Commission. Proposed street names shall be referred to the planning commission for review and recommendation.

6-11-2 CHANGING NAME OF STREET. The Council may, by ordinance, change the name of a street.

6-11-3 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.

6-11-4 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in 6-11-4 of the City Code of Whittemore, Iowa."

6-11-5 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk. An 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.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 VACATION AND DISPOSAL

- |                                   |                                      |
|-----------------------------------|--------------------------------------|
| 6-12-1 Power to Vacate            | 6-12-4 Findings Required             |
| 6-12-2 Plan Commission            | 6-12-5 Disposal of Streets or Alleys |
| 6-12-3 Notice of Vacation Hearing | 6-12-6 Disposal by Gift Limited      |

6-12-1 **POWER TO VACATE.** When, in the judgement of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, they may do so in accordance with the provisions of this chapter.

6-12-2 **PLAN COMMISSION.** Any proposal to vacate a street or alley shall be referred by the Council to the planning commission for its study and recommendation prior to further consideration by the Council. The planning commission shall submit a written report including recommendations to the Council within thirty (30) days of the date proposed vacation was referred to it.

6-12-3 **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.

6-12-4 **FINDINGS REQUIRED.** No street or alley, or portion thereof, shall be vacated unless the Council finds that:

A. **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.

B. **Abutting Property.** The proposed vacation will not deny owners or property abutting on the street or alley reasonable access to their property.

6-12-5 **DISPOSAL OF STREETS OR ALLEYS.** When in the judgement of the Council it would be in the best interest of the City to dispose of a vacated street or alley, or portion thereof, they may do so by resolution following notice and hearing.

6-12-6 **DISPOSAL BY GIFT LIMITED.** The City may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 13 STREET AND SIDEWALK GRADES**

6-13-1 Established Grades

6-13-2 Record Maintained

6-13-1 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.

6-13-2 RECORD MAINTAINED. The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 WELL PROTECTION ZONES

6-14-1 Municipal Well Control Zones  
 6-14-2 Well Protection

6-14-3 Non-Conforming Uses

6-14-1 MUNICIPAL WELL CONTROL ZONES. It shall be unlawful for any person, persons, group or groups of persons to erect or cause to be erected any of the following structure, uses or activities.

6-14-2 WELL PROTECTION. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from the defined public well type as listed below in Table A:

| Table A : Separation Distances              |   |  |
|---|---|--|
| Source of Contamination                     | Required Minimum Distance From Well, In Feet  |  |
|   | Deep Well <sup>1</sup>  | Shallow Well <sup>1</sup>  |
| <b>WASTEWATER STRUCTURES:</b>               |   |  |
| <b>Point of Discharge to Ground Surface</b> |   |  |
| Sanitary & industrial discharges            | 400   | 400  |
| Water treatment plant wastes                | 50  | 50   |
| Well house floor drains                     | 5   | 5  |
| <b>Sewers &amp; Drains<sup>2</sup></b>      |   |  |
| Sanitary & storm sewers, drains             | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer pipe                  | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer main pipe                  |
| Sewer force mains                           | 0-75 feet: Prohibited<br>75-400 feet if water main pipe<br>400-1000 feet if water main or sanitary sewer pipe | 0-75 feet: Prohibited<br>75-400 feet if water main pipe<br>400-1000 feet if water main or sanitary sewer main pipe |
|   |   |  |

Table A : Separation Distances

| Source of Contamination   | Required Minimum Distance From Well, In Feet  |   |
|---|---|---|
|   | Deep Well <sup>1</sup>  | Shallow Well <sup>1</sup>   |
| Water plant treatment process wastes that are treated on site                       | 0-5 feet: prohibited<br>5-50 feet if sanitary sewer pipe  | 0-5 feet: prohibited<br>5-50 feet if sanitary sewer main pipe                                     |
| Water plant wastes to sanitary sewer  | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer main pipe | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer pipe      |
| Well house floor drains to sewers   | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer main pipe | 0-25 feet: prohibited<br>25-75 feet if water main pipe<br>75-200 feet if sanitary sewer main pipe |
| Land Disposal of Treated Wastes   |   |   |
| Irrigation of wastewater  | 200   | 400   |
| Land application of solid wastes <sup>3</sup>                                       | 200   | 400   |
| Other   |   |   |
| Cesspools & earth pit privies   | 200   | 400   |
| Concrete vaults & septic tanks  | 100   | 200   |
| Lagoons   | 400   | 1000  |
| Mechanical wastewater treatment plants  | 200   | 400   |
| Soil absorption fields  | 200   | 400   |
| CHEMICALS:  |   |   |
| Chemical application to ground surface  | 100   | 200   |
| Chemical & mineral storage above ground   | 100   | 200   |
| Chemical & mineral storage on or under ground                                       | 200   | 400   |
| Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia) | 200   | 400   |
| ANIMALS:  |   |   |
| Animal Pasturage  | 50  | 50  |
| Animal Enclosure  | 200   | 400   |
| Earthen silage storage trench or pit  | 100   | 200   |
|   |   |   |
|   |   |   |

| Table A : Separation Distances                        |  |                           |
|---|--|---------------------------|
| Source of Contamination                               | Required Minimum Distance From Well, In Feet |                           |
|   | Deep Well <sup>1</sup>                       | Shallow Well <sup>1</sup> |
| <b>Animal Wastes</b>                                  |  |                           |
| Land application of liquid or slurry                  | 200  | 400                       |
| Land application of solids                            | 200  | 400                       |
| Solids stockpile                                      | 200  | 400                       |
| Storage basin or lagoon                               | 400  | 1000                      |
| Storage tank  | 200  | 400                       |
| <b>MISCELLANEOUS:</b>                                 |  |                           |
| Basements, pits, sumps                                | 10   | 10                        |
| Cemeteries  | 200  | 200                       |
| Cisterns  | 50   | 100                       |
| Flowing streams or other surface water                | 50   | 50                        |
| Railroads   | 100  | 200                       |
| Private wells   | 200  | 400                       |
| Solid waste landfills and disposal sites <sup>4</sup> | 1000   | 1000                      |

<sup>1</sup>Deep and shallow wells, as defined in 567-40.2(455b): a deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn.

<sup>2</sup>The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

<sup>3</sup>Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment process may be land-applied within the separation distances on an individual, case-by-case basis.

<sup>4</sup>Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

**6-14-3 NONCONFORMING USES.** The use of the structures or facilities existing as of the date of adoption of this Ordinance may be continued even though such use may not conform with the regulations of this article, in other words may be located within the distances set forth. However, such structure or facility which is not in conformance with the terms of this Ordinance, may not be enlarged, extended, reconstructed, or substituted subsequent to the date of this adoption of this Ordinance as shown below.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 15 VACANT BUILDING REQUIREMENTS

|        |                              |        |             |
|--------|------------------------------|--------|-------------|
| 6-15-1 | Definitions                  | 6-15-4 | Enforcement |
| 6-15-2 | Applicability                | 6-15-5 | Violations  |
| 6-15-3 | Vacant Building Requirements |        |             |

6-15-1 DEFINITIONS. The following definitions shall apply in this Section:

1. “Accessory Building/Structure”. A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principle building or structure or use of the land; i.e. a garden house, greenhouse, garage, carport, shed, fence, or retaining wall.

2. “Building”. Any structure used or intended for supporting or sheltering any use or occupancy.

3. “Exterior Premises”. The open space on the premises or the portion of the premises upon which there is not a structure.

4. “Good Repair”. “Good repair” shall mean free from blighting and hazardous conditions clean and sanitary, and in safe condition.

5. “Imminent Hazard”. A condition which could cause serious or life-threatening injury or death any time.

6. “Mixed Occupancy”. Occupancy of a structure in part for residential use and in part for some other use not accessory thereto.

7. “Occupant”. An occupant is any person who leases or lawfully resides in a building or premises, or a portion of a building or premises.

8. “Owner”. Any person having a title to the premises, as recorded in the office of the Recorder for Kossuth County, or as recorded on the Kossuth County assessment rolls.

9. “Partially Vacant”. A multi-storied building or structure that has one (1) or more stories vacant, including the ground level store front. For the purpose of this ordinance, the ground floor must be vacant to be deemed partially vacant.

10. “Responsible Person”. A natural person who is the owner, operator or manager of any building, structure, or premises and is responsible for the property’s maintenance and management.

11. “Rubbish”. Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials; papers, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust, and other similar materials.

12. "Structure". Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

13. "Vacant". A commercial or industrial building or structure shall be deemed to be vacant if it is unoccupied and/or no person or persons currently operate a lawful business open regularly for business with the exception of holidays and seasonal businesses, and meets one or more of the following:

a. Unsecured or secured by means other than those used in the design of the building;

b. Declared unfit for occupancy as determined by the Building Inspector;

c. Non-compliant with International Property Maintenance Code or other City and State Building Codes as adopted by the City;

d. Existence of housing, building, fire, health and safety, or zoning code violations;  
or

e. No receiving service by public utilities

14. "Waste". Waste shall mean garbage, ashes, rubbish or trash.

15. "Weeds". Weeds or "Noxious Weeds" shall mean Canada thistle, leafy spurge, field bindweed (Creeping Jenny), Ambrosia trifida (Giant Ragweed), Arubuosia trifida (Common Ragweed), and such other weeds as are defined in "Weeds of the North Central States, North Central Regional Research Publication No. 281, Bulletin 772", published by the University of Illinois at Urbana-Champaign, College of Agriculture, Agriculture Experiment Station, and in all applicable sections of current Codes at the time as adopted by the City Council (e.g. Iowa Code, International Property Maintenance Code, etc.).

#### 6-15-2 APPLICABILITY.

1. "General". The provisions of this Section shall apply to all manufacturing, commercial, industrial and mixed occupancy buildings vacant for one hundred eighty (180) consecutive days, and all manufacturing, commercial, industrial and mixed occupancy buildings which have been partially vacant for one hundred eighty (180) days, in any commercial or industrial zoned district.

2. "Conflict". In any case where a provision of this Section is found to be in conflict with a provision of the Zoning Code, or any other provisions of the Code of General Ordinances, the provision which established the higher standard for the protection of the public health, safety and welfare shall prevail.

3. "Application of Other Ordinances". Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Code of Ordinances or the Zoning Code. Repairs, additions or alterations to a structure shall be done in accordance with the procedures and provisions of the State law, applicable chapters of this Code of Ordinances and NFPA 70 (National Electric Code). Nothing in this section shall be construed to cancel, modify or set aside any provisions of the City Zoning Code or Building Code.

4. “Existing Remedies”. The provisions of this section shall not be construed to abolish or impair existing remedies of the City, or its officers or agencies, under State laws or this Code of Ordinances, including the Zoning Code, relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary, or the abatement of public nuisances.

5. “Historic Buildings”. The provisions of this Section shall apply to structures designated by the Federal Government, State or City as historic buildings. Any work to said structures shall also comply with current International Building Code as adopted by the City.

#### 6-15-3 VACANT BUILDING REQUIREMENTS

1. “Code Compliant”. All vacant buildings or structures shall comply with all building, fire, property maintenance, zoning and other applicable sections of the Code of Ordinances, and shall apply for all necessary building, fire prevention, and zoning permits.

2. “Vacant Building Maintenance Standards”. All buildings or structures shall adequately protect the building from intrusion by trespassers and pests, and from deterioration by the weather. The buildings must also comply with the following Vacant Building Maintenance Standards:

a. Building Openings. Doors, windows, areaways, and other openings shall be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken glass in doors, windows and other such openings shall be repaired/replaced with glass. No building opening shall be boarded. All first floor or ground level windows, doors and openings shall be free of any posters, paper or fabric coverings.

b. Waste Removal. All waste, debris, rubbish, and garbage shall be removed from the interior of the building or structure and surrounding premises.

c. Roofs. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain, or roof draining and shall allow for sufficient drainage to prevent dampness or deterioration in the interior of the building.

d. Drainage. The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.

e. Building Structure. The building shall be maintained in good repair and structurally sound. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety and welfare.

f. Structural Members. The structural members shall be free of deterioration and capable of safety bearing imposed dead and live loads.

g. Foundation Walls. The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rat-proof.

h. Exterior Walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

i. Decorative Features. The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or ruse by periodic applications of weather-coating materials such as paint or similar surface treatment.

j. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials such as paint or similar surface treatment.

k. Appurtenance. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof shall be of sufficient strength or stability, and anchored so as to be capable of resisting wind pressure of one-half (1/2) of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

l. Chimneys and Towers. Chimneys, cooking towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials such as paint or similar surface treatments.

m. Walkways. Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of weeds, snow and ice. Snow and ice removal shall be completed within twenty-four (24) hours of such a weather event.

n. Accessory Building/Structures. Accessory buildings/structures such as garages, sheds and fences shall be free from safety, health and fire hazards; and shall comply with these Vacant Building Maintenance Standards.

o. Exterior Premises. The surrounding premises upon which the structure or building is located shall be clean, safe and sanitary, free from waste, rubbish, garbage, excessive vegetation, shall not be used for exterior storage, and shall not pose a threat to public health, welfare or safety.

#### 6-15-4 ENFORCEMENT.

1. "Authorized Officials". The Zoning Administrator and the Building Inspector shall have the authority to enforce the provisions of this Section and to exercise the powers and duties specified in this Section, and may delegate their authority to appropriate City personnel as his/her designee.

2. "Right of Entry". An authorized officials has the right to enter buildings, structures, or premises subject to this Section at reasonable times, with the express or implied consent of the owner, responsible person, or occupant, to inspect in accordance with the City's policy and procedure for

entering onto private property to conduct administrative interior and exterior inspections for code administration and enforcement. If entry is refused, it shall be a violation of this ordinance for which a municipal infraction citation may be issued.

3. "Inspections". An authorized official may inspect the premises and structures to determine compliance with this Section at their discretion. All reports of such inspections shall be in writing, signed or initialed, and dated. An authorized official may engage any expert opinion as deemed necessary to report upon unusual technical issues that arise in the course of their duties, in accordance with City policy. An authorized official, or his/her designee(2), may conduct inspections made pursuant to the provisions of this Section in conjunction with other inspectors of the Department, police officers, firefighters, or inspectors from other governmental bodies.

4. "Issuance of Orders to Repair". Upon inspection, an authorized official or his/her designee, shall issue orders to repair for work needed:

- a. To adequately protect the building from intrusion by trespassers and from deterioration by the weather;
- b. To comply with the Vacant Building Maintenance Standards set for in this Section;
- c. To ensure that allowing the building to remain will not be detrimental to public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood; or
- d. To eliminate any hazards to police officers or firefighters that may enter the premises in times of emergency.

When issuing Orders to Repair, the authorized official(s) shall specify the deadline for completion of the repair required and shall mail the notice to the owner or responsible person identified in the permit. All work done pursuant to this Section shall be done in compliance with any applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.

5. "Re-inspections". Re-inspections may be conducted after the deadline for repair as stated in the Order. Re-inspections are subject to applicable re-inspection fees.

6. "Notices and Orders". An authorized official may issue notices and orders to owners, responsible persons, operators or occupants to obtain compliance with this Section.

7. "Revocation, Reinstatement Measures". If a vacant building permit is revoked by the Building Inspector for noncompliance with any provisions of this code, the owner of the building shall be given thirty (30) days to comply with the provisions of this code. Extension of such thirty (30) day period may be granted at the discretion of the Building Inspector. Upon expiration of the thirty (30) day period, or any extension thereof, if the building continues to be noncompliant, a municipal infraction will be issued.

6-15-5 VIOLATIONS.

1. "Violations".

a. Any violation of a provision of this Ordinance is a municipal infraction for which a municipal infraction citation may be issued. Each day that the violation continues shall constitute a separate violation for which a municipal infraction citation may be issued.

b. Abatement of Violations. The issuance of a municipal infraction citation shall not preclude the City Attorney from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal action, conduct business, or utilization of a structure or premises.

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 1 ELECTRIC UTILITY

7-1-1 SERVICE RULES AND REGULATIONS. The rules and regulations for service are contained in the Municipal Electric Utility of the City of Whittemore Tariff, on file with the Iowa State Commerce Commission. Also, an official copy of the rules and regulations as adopted is now on file in the office of the clerk. The rules and regulations contained therein shall apply to all users of the municipal electric system.

7-1-2 RATES. The rates for electric service shall be as follows, with the city reserving the right to adjust rates to reflect supplier increases.

#### 1. Residential Service.

##### APPLICABLE TO:

Residential customers for all domestic uses in single-family dwellings and individually metered apartments with the service territory of City of Whittemore Electric Utility. This class also includes the Whittemore Housing Units.

This schedule includes the use of motors of not more than (5) horsepower individual capacity; water heating units not exceeding 5kW simultaneous capacity; and space heating and air conditioning.

##### SERVICE AVAILABLE:

Single-phase, 60 Hertz, 120/240 volt, 400 amp max., 3-wire, single meter.

##### MONTHLY RATE:

|                          |             |
|--------------------------|-------------|
| Customer Charge (no kWh) | \$13.45     |
| Plus                     |             |
| Energy Charge All kWh    | 15.91 cents |

##### SALES TAX:

Sales tax to be added to all electric bills so as to be in compliance with the provisions of the laws of the State of Iowa.

##### PROMPT PAYMENT PROVISIONS:

All charges are net. The monthly bills for all utility services shall be mailed on or about the 5<sup>th</sup> day of the following month. Bills shall be due and payable by the 20<sup>th</sup> of the month. Those bills not paid by that date shall be increased by ten (10%) percent. That bill must be paid in full before any payment may be accredited to any consequent bills.

**2. Small Commercial**

APPLICABLE TO:

Any commercial or industrial load within the service territory of City of Whittemore Municipal Electric Utility, with a monthly usage exceeding 5,000 kWh no more than twice in any twelve-month period, for all purposes. Service may be single or three phase.

SERVICE AVAILABLE:

Single-phase, 60 Hertz, 120/240 volt, 400 amp max., 3-wire, single meter, or three-phase, 60 Hertz, at available voltages and configurations.

MONTHLY RATE:

|                          |             |
|--------------------------|-------------|
| Customer Charge (no kWh) | \$13.45     |
| Plus                     |             |
| Energy Charge All kWh    | 14.60 cents |

SALES TAX:

Sales tax to be added to all electric bills so as to be in compliance with the provisions of the laws of the State of Iowa.

PROMPT PAYMENT PROVISIONS:

All charges are net. The monthly bills for all utility services shall be mailed on or about the 5<sup>th</sup> day of the following month. Bills shall be due and payable by the 20<sup>th</sup> of the month. Those bills not paid by that date shall be increased by ten (10%) percent. That bill must be paid in full before any payment may be accredited to any consequent bills.

**3. Large Commercial**

APPLICABLE TO:

Any commercial or industrial load within the City of Whittemore Municipal Electric Utility service territory, with monthly usage that exceeds 5,000 kWh more than two times in any twelve-month period, for all purposes.

SERVICE AVAILABLE:

Three-phase, 60 Hertz, 240/120 V, 208 Y/120 V or 480 y/277 V, 4-wire. Special voltages may be provided at the discretion of the utility. Utility furnishes only one transformer bank and/or one meter.

MONTHLY RATE:

|                          |            |
|--------------------------|------------|
| Customer Charge (no kWh) | \$16.10    |
| Plus                     |            |
| Energy Charge All kWh    | 4.47 cents |
| Plus                     |            |
| Demand Charge All kWh    | \$14.71    |

METERED DEMAND:

The metered demand for any month shall be the maximum kilowatt demand established by the consumer for any fifteen-minute interval during the month as indicated or recorded by a demand meter.

POWER FACTOR ADJUSTMENT:

If the customer's average monthly power factor falls below 90%, leading or lagging, the utility may adjust the metered demand by the ratio of 90% to the measured average monthly power factor in percent.

Example:

$$\begin{aligned} \text{Metered Demand} &= 739 \text{ kW} \\ \text{Ave. Mo. Power Factor} &= 73.0\% \\ \text{Ratio} &= 90/73 = 1.2329 \\ \text{Adjusted Demand} &= (739)(1.2329) = 911 \text{ kW} \end{aligned}$$

ADJUSTED DEMAND:

The adjusted demand consists of the metered demand adjusted for power factor, if applicable.

BILLING DEMAND:

The demand to be billed shall be the adjusted demand for the month but not less than 50% of the highest adjusted demand during the preceding 11 months.

SALES TAX:

Sales tax to be added to all electric bills so as to be in compliance with the provisions of the laws of the State of Iowa.

PROMPT PAYMENT PROVISIONS:

All charges are net. The monthly bills for all utility services shall be mailed on or about the 5<sup>th</sup> day of the following month. Bills shall be due and payable by the 20<sup>th</sup> of the month. Those bills not paid by that date shall be increased by ten (10%) percent. That bill must be paid in full before any payment may be accredited to any consequent bills.

**4. Street Lighting**

APPLICABLE TO:

All energy associated with furnishing of street lighting by City of Whittemore Municipal Electric Utility.

SERVICE AVAILABLE:

Single-phase, 60 Hertz, 120/240 volt, 400 amp max., 3-wire, or otherwise available.

MONTHLY RATE:

|                          |            |
|--------------------------|------------|
| Customer Charge (no kWh) | \$23.53    |
| Plus                     |            |
| Energy Charge All kWh    | 10.8 cents |

5. Farm Customers.

All customers who reside outside of the city limits of City of Whittemore and who are served by the City of Whittemore Municipal Electric Utility on one of its “Farm Lines” shall be charged an additional Customer Charge equal to \$15.00 per month, to reflect the additional cost to serve those customers.

6. Re-Connect Fee

Every potential customer shall be \$15.00 connect fee, if service was disconnected by previous customer.

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 NATURAL GAS UTILITY

7-2-1 SERVICE RULES AND REGULATIONS. The rules and regulations for service are contained in the Municipal Gas Utility of the City of Whittemore Tariff, on file with the Iowa State Commerce Commission. Also, an official copy of the rules and regulations as adopted is now on file in the office of the clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

7-2-2 RATES. The rates for gas service shall be as follows, with the city reserving the right to adjust rates to reflect supplier increases.

1. Meter Charge (per Customer, per Month)

|   |                             |
|---|-----------------------------|
| Residential -                                     | \$ 8.00 plus applicable tax |
| Business -  | \$10.00 plus applicable tax |
| Industrial (AI Processors & Elevator Corn Drying) | \$30.00 plus applicable tax |

2. Residential and Commercial Rates: Firm Gas. All usage at actual cost (per 100 cubic foot) plus pre-determined Service Fee of \$0.47 (per 100 cubic foot) as set by Council decision.

3. Industrial Rates. Available to those customers who agree to maintain standby facilities and have an annual fuel consumption in excess of 7,500,000 cubic feet per year. Actual cost per MCF (also minimum bill) plus pre-determined Service Fee of \$1.95 (per MCF) as set by Council decision.

7-2-3 RATE ADJUSTMENT. The rates specified in 7-2-2 shall be adjusted to reflect changes in the cost of natural gas supplied to the city by Northern Natural Gas Company in accordance with tariffs as filed with the Federal Power Commission.

1. Calculation of Adjustment. The clerk shall calculate appropriate adjustments to the rates specified in 7-2-2 pursuant to procedures approved by resolution of the council.

2. Notice. The clerk shall cause proper notice of any adjustments made to be given to consumers.

3. Connect Fee. Every potential customer shall pay a \$10.00 connect fee, if service was disconnected by previous customer.

4. Monthly Billing. The monthly bills for both gas and electric service shall be mailed by the 5th day of the following month. Bills shall be due and payable by the 20th day of that month. Those bills not paid by that date shall be increased by ten (10%) percent. That bill must be paid in full before any payment may be accredited to any consequent bills.

7-2-4 METER PROTECTION. Customers shall not in anyway, landscape around, obstruct, cover or in any fashion obscure the meter so as to interfere with the maintenance or operation of said meter.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 3 CABLE TELEVISION FRANCHISE**

The Cable Television Franchise Ordinance is contained in its entirety in the Office of the City Clerk in City Hall, Whittemore, Iowa, and is hereby included by reference.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 4 FLOODPLAIN MANAGEMENT**

The City of Whittemore, Floodplain Management Ordinance is kept on file in the City Clerk's office and not contained in this document.

The entire content of the Whittemore Floodplain Management Ordinance is hereby referenced and saved from repeal.