

**CODE OF ORDINANCES**

**ANITA, IOWA**

**2007**

**CODIFIED BY: SOUTHWEST IOWA PLANNING COUNCIL  
1501 SW 7TH STREET  
ATLANTIC, IOWA 50022-0348**

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**TITLE I GENERAL PROVISIONS**

**CHAPTER 1 GENERAL PROVISIONS**

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**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 a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "City" means the City of Anita, 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.

2. "Clerk" means City Clerk - Treasurer.

3. "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. If the last day is Sunday or a legal holiday, that day shall be excluded.

4. "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.

5. "County" means the County of Cass, Iowa.

6. "Fiscal Year" means July 1 to June 30.

7. "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.

8. "May" confers a power.

9. "Month" means a calendar month.

10. "Must" states a requirement.

11. "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".

12. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

13. "Ordinance" means a law of the city; however, an administrative action, order, or directive, may be in the form of a resolution.

14. "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.

15. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

16. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

17. "Preceding" and "following" mean next before and next after, respectively.

18. "Property" includes real and personal property.

19. "Property Owner" means a person owning private property in the City of Anita as shown by the County Auditor's plats of the city.

20. "Real property" includes any interest in land.

21. "Shall" imposes a duty.

22. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

23. "State" means the State of Iowa.

24. "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.

25. "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.

26. "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;

27. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail.

28. "Year" means a calendar year.

29. All words and phrases shall be construed and understood according to the common and approved usage of the language. Technical words and phrases that may have acquired a peculiar and

appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

30. 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 AMENDMENT.** All ordinances of the city council passed thereafter shall be in the form of an addition or amendment to the Anita Municipal Code, 2006, 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)

**1-1-5 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.

**1-1-6 CITY POWERS.** The city may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city and of its residents, and preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, sec. 364.1)

## **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 (24) hour written notice of the authorized official's intention to inspect such building or premises. 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**

**1-3-1 GENERAL PENALTY.** Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of Anita is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinances of Anita shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment not to exceed thirty (30) days.

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

**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 Anita, 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 Anita, 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 Anita.

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 Alternate 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).

(Code of Iowa, Sec. 364.22)

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, by certified mail, addressed to the defendant at the defendant's last known mailing address, 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.

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

**TITLE I GENERAL PROVISIONS**

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

<b>1-4-1 Purpose and Intent</b>	<b>1-4-4 Subpoenas</b>
<b>1-4-2 General</b>	<b>1-4-5 Conduct of Hearing</b>
<b>1-4-3 Form of Notice of Hearing</b>	<b>1-4-6 Method and Form of Decision</b>

**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 \_\_\_\_\_ City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, 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 with the clerk-treasurer."

**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 filing an affidavit 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, however, such evidence standing alone shall not be sufficient 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 upon 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. In 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 alternatively has not read or listened to 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

<b>2-1-1</b>	<b>Charter</b>	<b>2-1-5</b>	<b>Term of Mayor</b>
<b>2-1-2</b>	<b>Form of Government</b>	<b>2-1-6</b>	<b>Nominations</b>
<b>2-1-3</b>	<b>Powers and Duties</b>	<b>2-1-7</b>	<b>Copies on File</b>
<b>2-1-4</b>	<b>Number and Term of City Council</b>		

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

**2-1-2 FORM OF GOVERNMENT.** The form of government of the City of Anita, 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 Anita, Iowa.

**2-1-4 NUMBER AND TERM OF CITY COUNCIL.** The city council consists of five (5) city council members elected at large for staggered terms of four (4) years each.

(Code of Iowa, Sec. 376.2 & Sec. 372.4)

**2-1-5 TERM OF MAYOR.** The mayor is elected for a term of four (4) years

(Code of Iowa, Sec. 372.4 & 376.2)

**2-1-6 NOMINATIONS.** All candidates for elective municipal offices shall be nominated by petition following the provisions of Chapter 45 of the Iowa Code.

(Code of Iowa, Sec. 376.3)

**2-1-7 COPIES ON FILE.** The clerk-treasurer shall keep an official copy of the charter on file with the official records of the clerk-treasurer, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the clerk-treasurer's office for public inspection.

(Code of Iowa, Sec. 372.1)

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 2 CITY ELECTIONS**

<b>2-2-1 Purpose</b>	<b>2-2-6 Filing, Presumption,</b>
<b>2-2-2 Nominating Method to be Used</b>	<b>Withdrawals, Objections</b>
<b>2-2-3 Nominations by Petition</b>	<b>2-2-7 Persons Elected</b>
<b>2-2-4 Adding Name by Petition</b>	<b>2-2-8 Primary and Runoff Abolished</b>
<b>2-2-5 Preparation of Petition</b>	

**2-2-1 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.

**2-2-2 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.

**2-2-3 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.

**2-2-4 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.

**2-2-5 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 of 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.

**2-2-6 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.

**2-2-7 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.

**2-2-8 PRIMARY AND RUNOFF ABOLISHED.** The council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for city offices.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 3 APPOINTMENT AND QUALIFICATIONS OF APPOINTIVE OFFICERS**

<b>2-3-1</b>	<b>Creation of Appointive Officers</b>	<b>2-3-5</b>	<b>Bonds Required</b>
		<b>2-3-6</b>	<b>Surety</b>
<b>2-3-2</b>	<b>Appointments of Officers</b>	<b>2-3-7</b>	<b>Blanket Position Bond</b>
<b>2-3-3</b>	<b>Terms of Appointive Officers</b>	<b>2-3-8</b>	<b>Bonds Filed</b>
<b>2-3-4</b>	<b>Vacancies in Offices</b>	<b>2-3-9</b>	<b>Gifts</b>

**2-3-1 CREATION OF APPOINTIVE OFFICERS.** There are hereby created the following appointive officers: clerk-treasurer, city attorney, public health officer, police chief, fire chief, zoning administrator, street superintendent, and wastewater systems superintendent, and other officers as may be provided for by ordinance.

**2-3-2 APPOINTMENT OF OFFICERS.** The mayor shall appoint a Mayor Pro Tempore and shall appoint and may dismiss the Police Chief with the consent of the majority 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. 372.4(2))

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

**2-3-4 VACANCIES IN OFFICES.** A vacancy in an appointive office shall be filled in the same manner as the original appointment. A vacancy in an elective office shall be filled by a majority vote of all members of the city council, unless filled by election in accordance with state law.

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

**2-3-5 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.

(Code of Iowa, Sec. 64.13)

**2-3-6 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.

**2-3-7 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)

**2-3-8 BONDS FILED.** All bonds when duly executed shall be filed with the clerk-treasurer, except that the clerk-treasurer's bond shall be filed with the mayor.

(Code of Iowa, Sec. 64.23)

**2-3-9 GIFTS.**

1. Except as otherwise provided in Chapter 68B, Code of Iowa, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time.

2. A restricted donor shall not, directly or indirectly, offer to make a gift or a series of gifts to a public official, public employee, or candidate. A restricted donor shall not, directly or indirectly, join with one or more other restricted donors to offer to make a gift or a series of gifts to a public official, public employee, or candidate.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 4 POWERS AND DUTIES OF  
MUNICIPAL OFFICERS**

<b>2-4-1</b>	<b>General Duties</b>	<b>2-4-9</b>	<b>Powers and Duties of the City Attorney</b>
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<b>2-4-4</b>	<b>Transfer of Records and Property To Successor</b>	<b>2-4-12</b>	<b>Powers and Duties of the Chief of Police</b>
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<b>2-4-6</b>	<b>Powers and Duties of the Mayor</b>	<b>2-4-14</b>	<b>Powers and Duties of the Public Health Officer</b>
<b>2-4-7</b>	<b>Powers and Duties of the City Manager</b>		
<b>2-4-8</b>	<b>Powers and Duties of the Clerk-Treasurer</b>		

**2-4-1 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))

**2-4-2 BOOKS AND RECORDS.** All books and records required to be kept by law or ordinance shall be open to public inspection , subject to confidential records in accordance with state law.

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

**2-4-3 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 clerk-treasurer, together with receipts indicating the sources of the funds.

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

**2-4-5 POWERS AND DUTIES OF THE CITY COUNCIL.** The powers and duties of the city council include, but are not limited to the following:

1. Approve Action. 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 twenty-five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not

less than a majority of 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. **Measure Becomes 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 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))

## MEETINGS.

1. **Regular Meetings.** The regular meetings of the city council are on the 2nd Wednesday of each month at 7:30 o'clock p. m. in the city council chambers at city hall. If such day falls on a legal holiday, 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 clerk-treasurer. 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 clerk-treasurer.

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

3. **Quorum.** A majority of the 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.

**2-4-6 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) & (3))

3. The mayor may sign, veto, or take no action on an ordinance, amendment, or resolution passed by the city council. If the mayor vetoes a measure, the mayor must explain in writing the reason for such veto to the city council.

(Code of Iowa, Sec. 380.5, 380.6(2) & (3))

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.

Code of Iowa, Sec. 372.14(2))

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 appoint, employ, or discharge from employment officers or employees without approval of the city council. 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 a law enforcement officer.

**2-4-7 POWERS AND DUTIES OF THE CITY MANAGER.** The City Manager is the chief administrative officer of the City. The duties shall be as follows:

(Code of Iowa, Sec. 372.8)

1. Supervise enforcement and execution of city laws.
2. Attend all meetings of the council.
3. Recommend to the council any measures as deemed necessary or expedient for the good government and welfare of the city.
4. Supervise the official conduct of all officers of the city appointed by the Manager, and take active control of the police, fire, and utility departments of the city.
5. Supervise the performance of all contracts for work to be done for the city, make all purchases of material and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.
6. Supervise the construction, improvement, repair, maintenance and management of all city property, capital improvements and undertakings of the city, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.
7. Cooperate with any administrative agency or utility board of trustees.
8. Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by city law.
9. Keep the Council fully advised of the financial and other conditions of the city, and of its future needs.

10. Prepare and submit to the council annually the required budgets.

11. Conduct the business affairs of the city and cause accurate records to be kept by modern and efficient accounting methods.

12. Make to the council, not later than the tenth day of each month, an itemized financial report in writing showing the receipts and disbursements for the preceding month. Copies of financial reports must be available at the Clerk's office for public distribution.

13. Appoint a treasurer subject to the approval of the Council.

14. Determine the final employment status and classification of all employees and fix their compensation, subject to civil service provisions and Chapter 35C of the Code of Iowa, except the City Clerk and City Attorney.

15. Make all appointments not otherwise provided for.

16. Suspend or discharge summarily any officer, appointee or employee whom the Manager has power to appoint or employ, subject to civil service provisions and Chapter 35C of the Code of Iowa.

17. Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under the Manager's supervision, and compel the production of evidence and attendance of witnesses.

18. Administer oaths.

19. Perform other duties at the Council's direction.

20. The City Manager shall not take part in any election for council members, other than by casting a vote, and shall not appoint a council member to city office or employment, nor shall any council member accept such appointment.

**2-4-8 POWERS AND DUTIES OF THE CLERK - TREASURER.** The duties of the clerk-treasurer shall be as follows:

1. The City 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. 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) & (6))

2. The City 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) & (2))

3. The City 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.

(Code of Iowa, Sec. 380.7(3))

The City 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(4))

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

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

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

(Code of Iowa, Sec. 362.3)

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

8. The City 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 to the County Auditor and the County Board of Supervisors.

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

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

12. The City 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 City Clerk shall maintain all city records as required by law.  
(Code of Iowa, Sec. 372.13(3) & (5))

14. The City 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 City 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 City Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the City Clerk's control when it may be necessary to such officer in the discharge of the City Clerk's duty. The City Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The City 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, Secs. 380.7(4), Sec. 22.2 & 22.7)

17. The City Clerk shall attend all meetings of committees, boards and commissions of the City. The City Clerk shall record and preserve a correct record of the proceedings of such meetings.  
(Code of Iowa, Sec. 372.13(4))

18. The City Clerk shall keep and file all communications and petitions directed to the City Council or to the City generally. The City 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 City 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 City 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 City 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 City 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 City 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 City 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 City 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 City Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

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

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

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

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

31. The City Clerk shall, immediately upon receipt of monies to be held in the City 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))

**2-4-9 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, 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 the city attorney or coming under the 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.

**2-4-10 POWERS AND DUTIES OF THE STREET SUPERINTENDENT.** The duties of the street superintendent shall be as follows:

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

1. The street 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.

2. The street superintendent shall maintain and repair all city-owned sidewalks, alleys, bridges and streets and keep them in a reasonably safe condition for travelers. The street 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 in them.

3. The street 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.

4. The street 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 street superintendent shall make monthly oral and written reports of the activities of the department to the mayor on or before the first day of each month.

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

**2-4-11 POWERS AND DUTIES OF THE WASTEWATER SYSTEMS SUPERINTENDENT.** The duties of the wastewater systems superintendent shall be as follows:  
(Code of Iowa, Sec. 372.13(4))

1. The wastewater systems superintendent shall be responsible for the management, operation, and maintenance of the municipal sanitary sewer system.

2. The wastewater systems superintendent shall keep records of 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 wastewater systems superintendent shall make a report every month to the mayor and city council on the present state of the wastewater system. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The wastewater systems 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 municipal wastewater system 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 wastewater systems superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

**2-4-12 POWERS AND DUTIES OF THE CHIEF OF POLICE.** The duties of the chief of police shall be as follows:

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

1. The chief of police shall wear upon the chief of police's outer garment and in plain view a metal badge engraved with the name of the chief of police's office, and such uniform as may be specified by the city council.

2. The chief of police shall assist the city attorney in prosecuting any persons for the violation of an ordinance by gathering all the facts and circumstances surrounding the case.

3. The chief of police shall be sergeant-at-arms of the council chamber when requested by the city council.

4. The chief of police shall report to the city council upon activities as chief of police when requested.

5. The chief of police shall protect the rights of persons and property, preserve order at all public gatherings, prevent and abate nuisances, and protect persons against every manner of unlawful disorder and offense.

6. The chief of police shall have charge of the city jail when such is provided and of all persons held therein. The chief of police shall execute all orders of the court referring to the jail. The chief of police shall feed and shelter persons jailed in the usual manner and as required by law. When no city jail is provided, the chief of police shall make arrangements to convey any persons requiring detention to the county jail as provided by law and agreements with the county.

7. The chief of police shall, whenever any person is bound over to the district court, convey the prisoner to the county jail.

8. The chief of police shall execute all lawful orders of any board or commission established by the city council.

9. The chief of police shall be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles and equipment for the department.

10. The chief of police may appoint one or more assistant police chiefs, who may perform the police chief's duties and who shall be members of the police force.

11. The police chief shall make such rules, not in conflict with the provisions of this ordinance, as needed for the detailed operation of the police department, subject to the approval of the city council. Such rules shall cover off-duty and on-duty conduct and activity of members, the wearing and care of the uniform, the use and practice with side arms and other police weapons, the use of police radio and other communications, attendance at training meetings and such other matters as the

chief of police determines to be necessary for the operation of the police department. The chief of police shall see that the discipline and conduct of the department conforms to rules of the department. In the event of an emergency the chief of police may make temporary rules for the protection of the health, safety, and welfare of the city and its citizens until due consideration by the city council may be had.

12. The chief of police shall, when requested, aid other municipal officers in the execution of their official duties.

13. The chief of police shall report all motor vehicle accidents the police department investigates in the regular course of duty to the Iowa Department of Public Safety as provided by law.

(Code of Iowa, sec. 321.266)

14. The chief of police shall keep a record of all arrests made in the city by police officers. The chief of police shall record whether said arrest was made under provisions of the laws of the State of Iowa or ordinances of the city. The record shall show the offense for which arrest was made, who made the arrest, and the disposition made of the charge.

At least every year the chief of police shall review and determine the current status of all Iowa arrests reported, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

**2-4-13 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 annual written reports to the city council based upon the records maintained by the fire department and summarizing the activities of the fire department for the year concerning the general status and efficiency of the fire department, the number of alarms answered during the year previous, and additional information that may be requested by the city council. This

report shall be filed with the clerk-treasurer. 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, theaters, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose; and
- 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.

(Code of Iowa, Sec. 100.12)

8. The fire chief shall make such recommendations to owners, occupants, caretakers, or managers of buildings necessary to eliminate fire hazards and other hazardous material.

(Code of Iowa, Sec. 100.13)

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.

(Code of Iowa, Sec. 100.4)

**2-4-14 POWERS AND DUTIES OF THE PUBLIC HEALTH OFFICER.** The duties of the public health officer shall be as follows:

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

1. The public health officer shall act as the medical and public health advisor to the mayor and city council.

2. Upon the order of the city attorney, the public health officer shall conduct physical examinations of any person claiming to have received injuries for which the city may be liable.

3. The public health officer shall inspect the premises upon which complaints have been received by the mayor, city council members, or other proper officials, or upon his own initiation, and make such inspections in a timely manner as required by ordinance or law in accordance with public health regulations

4. The public health officer shall issue such licenses and permits as required by this ordinance.

**TITLE II POLICY AND ADMINISTRATION**  
**CHAPTER 5 POWERS AND DUTIES OF THE**  
**MUNICIPAL UTILITIES BOARD**

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| <b>2-5-1 Board Established</b>              | <b>2-5-5 Powers and Duties</b>                                 |
| <b>2-5-2 Municipal Trustees</b>             | <b>2-5-6 Oath and Bond</b>                                     |
| <b>2-5-3 Qualifications of the Trustees</b> | <b>2-5-7 The Board of Trustees Shall Hire a Superintendent</b> |
| <b>2-5-4 Organization of the Board</b>      |  |

**2-5-1 BOARD ESTABLISHED.** There is hereby established a Board of Trustees for the Anita Municipal Utilities for the city, to be known as the Anita Municipal Utilities Board of Trustees.

**2-5-2 MUNICIPAL TRUSTEES.** The board of trustees of the Anita Municipal Utilities, hereinafter referred to as the board, shall consist of three (3) members. All board members shall be appointed by the mayor with approval by the city council.

**2-5-3 QUALIFICATIONS OF THE TRUSTEES.** All of the members of the board shall be bona fide citizens and residents of Anita, Iowa and shall be over the age of eighteen (18).

**2-5-4 ORGANIZATION OF THE BOARD.**

1. Terms of office. All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, 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 three (3) 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 appointment of the mayor, with approval of the city council, and the new trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive \$25.00 per meeting, or at such compensation as established by the city council.

**2-5-5 POWERS AND DUTIES.** The board shall have and exercise the following powers and duties:

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

2. To have charge, control, and supervision of the public utilities, its appurtenances, fixtures, and rooms containing the same upon approval of the city council.

3. To direct and control all the affairs of the municipal utilities.

4. To employ a superintendent, such assistants or employees as may be necessary for the proper management of the municipal utilities, and fix their compensation; provided, however, that prior to such employment, the compensation of the superintendent, 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 superintendent and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 70, Code of Iowa.

6. 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 utilities and the business of the board, fixing and enforcing penalties for violations.

7. To have exclusive control of the expenditure of all funds collected, and of all monies available by gift or otherwise, and of all other monies belonging to the municipal utilities including fees and charges collected, under the rules of the board.

8. 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 city; 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 utilities.

9. To keep a record of its proceedings.

**2-5-6 OATH AND BOND.** Each Trustee before entering upon the duties as a member of the Municipal Utilities Board shall take and subscribe an oath to faithfully and impartially execute the laws of the State of Iowa, the ordinances of the City relative to the Municipal Utilities Board and the rules and regulations applicable to the Municipal Utilities Board. Each Trustee shall execute and furnish a bond in an amount fixed by the Council, to be approved by the Mayor and filed with the City Clerk. The cost of such bond shall be paid from the general fund of the city.

**2-5-7 THE BOARD OF TRUSTEES SHALL HIRE A SUPERINTENDENT.** The duties of the superintendent of public utilities shall be as follows:

1. The superintendent shall be responsible for the management, operation, and maintenance of the municipal electric and water utilities, for the collection of all departmental revenues, payment of all expenses, and the keeping of authorized records of said department.

2. The superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and an up-to-date inventory of all goods and supplies, and keep all other records ordered to be kept by the board in addition to those provided for by law or ordinance.

3. The superintendent shall make a report annually in writing to the board on the present state of the public utilities. In this report shall be specifically stated the financial condition (including total monthly receipts, expenditures, and fund balances), production and the general condition of the entire utility enterprise. 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 provided to the city by the Anita Municipal Utilities. 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 statement of the method of disposal of net profits; a statement of free utilities 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.

A copy of the annual report will be filed with the city clerk-treasurer and a copy will be made available to the public upon request. Availability of said annual report shall be published.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 6 POLICE DEPARTMENT**

- |   |  |
|---|--|
| <b>2-6-1 Establishment and Purpose</b>    | <b>2-6-6 Worker's Compensation and Hospitalization Insurance</b> |
| <b>2-6-2 Department Organization</b>      | <b>2-6-7 Liability Insurance</b>                                 |
| <b>2-6-3 Peace Officer Qualifications</b> | <b>2-6-8 Summoning Aid</b>                                       |
| <b>2-6-4 Required Training</b>            | <b>2-6-9 Taking Weapons</b>                                      |
| <b>2-6-5 Compensation</b>                 |  |

**2-6-1 ESTABLISHMENT AND PURPOSE.** A police department is hereby established to provide for the preservation of the peace and enforcement of the law within the corporate limits of the city. It is the purpose of this ordinance to create a police department and specify how it shall be organized and operated.

**2-6-2 DEPARTMENT ORGANIZATION.** The police department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the city council.

**2-6-3 PEACE OFFICER QUALIFICATIONS.** In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

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

**2-6-4 REQUIRED TRAINING.** All police officers shall have received the minimum training required by state law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law. The council may provide financial assistance for such attendance.

**2-6-5 COMPENSATION.** Members of the Police Department are designated by rank and receive such compensation as shall be determined by resolution of the City Council.

**2-6-6 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE.** The council shall contract to insure the city against liability for workers compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for members of the police department injured in the performance of their duties.

**2-6-7 LIABILITY INSURANCE.** The council shall contract to insure against liability of the city or members of the department for injuries, death, or property damage arising out of and resulting from the performance of departmental duties.

**2-6-8 SUMMONING AID.** Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

**2-6-9 TAKING WEAPONS.** Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 7 AIRPORT COMMISSION

#### 2-7-1 Airport Commission Created

#### 2-7-2 Term of Office

#### 2-7-3 Compensation

#### 2-7-4 Oath and Bond

#### 2-7-5 Officers

#### 2-7-6 Powers and Duties

#### 2-7-7 Tax Levies and Funds

#### 2-7-8 Rules and Regulations

**2-7-1 AIRPORT COMMISSION CREATED.** Pursuant to the provisions of Section 330 of the Code of Iowa, there is hereby created an Airport Commission composed of three (3) resident voters of the City of Anita, Iowa, or resident voters of the immediate rural area who shall be qualified by knowledge and experience to act in matters pertaining to the management and control of airports. Such members shall be appointed by the mayor and approved by the city council.

**2-7-2 TERM OF OFFICE.** The term of office of the Commission shall be six years. The expiration date for all terms of office shall be the tenth of January, provided, however, that all members shall hold over until their successors are appointed and approved. Vacancies shall be filled as original appointments are made.

**2-7-3 COMPENSATION.** Members of the Airport Commission shall serve without compensation.

**2-7-4 OATH AND BOND.** Each Commissioner before entering upon the duties as a member of the Commission shall take and subscribe an oath to faithfully and impartially execute the laws of the State of Iowa, the ordinances of the City relative to the Airport and the rules and regulations applicable to the Airport. Each Commissioner shall execute and furnish a bond in the amount fixed by the Council, to be approved by the Mayor and filed with the City Clerk. The cost of such bond shall be paid from the general fund of the City.

**2-7-5 OFFICERS.** The Commission shall elect from its own members, a chairman and a secretary who shall serve for such term as the Commission shall determine.

**2-7-6 POWERS AND DUTIES.** The Commission shall have and exercise all the powers granted to cities and towns under Chapter 330 of the Code of Iowa, except powers to sell the airport, and shall exercise all other powers and duties as may be granted to or required by it by law or conferred on it by the Council.

**2-7-7 TAX LEVIES AND FUNDS.** The Commission shall annually certify the amount of tax within the limitations of Chapter 330 of the Code of Iowa to be levied for airport purposes, and upon such certification the City Council shall include such amount in its budget. There is hereby established a special fund to be known as the Airport Commission Fund, to which the City Treasurer shall credit all monies appropriated by the Council and funds available from gifts, grants, donations, rentals, and payments of like fund. All funds derived from taxation or otherwise for airport purposes shall be under full and absolute control of said Commission for the purposes prescribed by law, and shall be deposited with the City Treasurer to the credit of the

Airport Commission, and shall be disbursed only on the written warrants or orders of the Airport Commission, including the payment of all indebtedness arising from the acquisition and construction of airport or airports and the maintenance, operation and extension thereof. The Commission shall have full and exclusive authority to expend on behalf of the City all money credited to the Airport Commission Fund but shall have no power to contract debts or incur expenses beyond the amount of money appropriated by the Council and funds readily available from gifts, grants, donations, rentals and payments of like kind.

**2-7-8 RULES AND REGULATIONS.** The powers conferred on cities and towns to make and enforce rules and regulations under Section 330.11 of the Code of Iowa is delegated to the Airport Commission. The Commission shall make and publish such rules and regulations as may be necessary or desirable for the control, supervision, and operation of the airport, and the rules and regulations when published once in an official newspaper of the City of Anita, Iowa, shall have the effect of an ordinance of the City of Anita, Iowa, and any violations shall be punishable as a violation of an ordinance of said City, fine not exceeding five hundred dollars and/or by imprisonment not exceeding thirty days. No such rule or regulation shall be in conflict with any State law or regulation or Federal law or regulation.

Should any part of provisions of this ordinance be held by any court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of the ordinance.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 8 SALARIES OF MUNICIPAL OFFICERS**

**2-8-1 Council Member**

**2-8-3 Other Officers**

**2-8-2 Mayor**

**2-8-1 COUNCIL MEMBER.** The salaries of each city council member shall be \$25.00 for each regular or special meeting of the city council attended, payable twice annually, half due on June 30 and half due on Dember 31st of each year.

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

**2-8-2 MAYOR.** The mayor shall receive a monthly salary of \$100.00.

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

**2-8-3 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 9 CITY FINANCE

<b>2-9-1 Budget Adoption</b>	<b>2-9-8 Budget Officer</b>
<b>2-9-2 Budget Amendment</b>	<b>2-9-9 Expenditures</b>
<b>2-9-3 Budget Protest</b>	<b>2-9-10 Authorizations to Expend</b>
<b>2-9-4 Accounts and Programs</b>	<b>2-9-11 Accounting</b>
<b>2-9-5 Annual Report</b>	<b>2-9-12 Budget Accounts</b>
<b>2-9-6 Council Transfers</b>	<b>2-9-13 Contingency Accounts</b>
<b>2-9-7 Administrative Transfers</b>	<b>2-9-14 Petty Cash Fund</b>

**2-9-1 BUDGET ADOPTION.** Annually, the city shall prepare and adopt a budget, and shall certify taxes as follows:

(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 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 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.

(Code of Iowa, Sec. 384.16(1)(a-c))

2. Not less than ten (10) nor more than twenty (20) days before the date that the budget must be certified to the county auditor, the clerk-treasurer 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 city 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 not less than ten (10) nor more than (20) days before the hearing in a newspaper published at least once weekly and having general circulation in the city. A summary of the proposed budget shall be included in the notice. Proof of publication shall be filed with the county auditor.

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

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.

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

5. After the hearing, the city council shall adopt by resolution a budget for at least the next fiscal year, and the city clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, 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.

(Code of Iowa, Sec. 384.17(5))

**2-9-2 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, and is subject to protest as provided in section 2-6-3 of this chapter, 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.

(Code of Iowa, Sec. 384.18(1-4))

**2-9-3 BUDGET PROTEST.** Within a period of ten days after the final date that the budget or amended budget may be certified to the county auditor, persons affected by the budget may file a written protest with the county auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

**2-9-4 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 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)

**2-9-5 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 no later than December first of each year.

(Code of Iowa, Sec. 384.22)

**2-9-6 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 city 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))

**2-9-7 ADMINISTRATIVE TRANSFERS.** The city clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior city council approval.

The city clerk shall have the power to make transfers between activities, or between sub-programs without prior city council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out city council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed ten percent 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent (10%) greater or ten percent less than the original appropriation, it shall be presented to the city council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the city council.

(IA, Sec. 545.2.4(384.388))

**2-9-8 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 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))

**2-9-9 EXPENDITURES.** No expenditure shall be authorized by any city officer or employee except as herein provided. All purchases of services, supplies, and equipment shall be made only after issuance of a purchase order. No invoice shall be accepted unless authorized by such an order. Purchases not exceeding ten dollars (\$10.00) may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the City Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the City Clerk. Purchases from petty cash shall be excepted.

**2-9-10 AUTHORIZATIONS TO EXPEND.** All purchase orders other than those excepted herein shall be authorized by the city budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other city council approval. The city clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase may be made only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated a budget amendment to transfer of appropriation must be made in accordance with power delegated by city council and within the limits set by law and the city council. The city clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, a signed receipt or other certification indicating the material have been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

**2-9-11 ACCOUNTING.** The city 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 city 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)

**2-9-12 BUDGET ACCOUNTS.** The city 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)

**2-9-13 CONTINGENCY ACCOUNTS.** Whenever the city council shall have budgeted for a contingency account the city clerk shall set up in the accounting records but the city 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.

**2-9-14 PETTY CASH FUND.** The city clerk shall establish a petty cash fund not to exceed \$25.00 for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service for which payments the city clerk shall obtain some form of receipt or bill acknowledged as paid by the vendor or his agent. At such time as the petty cash fund is approaching depletion the city clerk shall draw a warrant/check for replenishment in the amount of the accumulated expenditures and said warrant and supporting detail shall be submitted to the council as a claim in the usual manner for claims and charged to the proper funds and accounts. The petty cash fund shall not be used for salary payments or other personal services or personal expenses.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 1 OFFENSES**

<b>3-1-1</b>	<b>Violations of Chapter</b>	<b>3-1-4</b>	<b>Streets</b>
<b>3-1-2</b>	<b>Public Peace</b>	<b>3-1-5</b>	<b>Public Safety and Health</b>
<b>3-1-3</b>	<b>Public Morals</b>	<b>3-1-6</b>	<b>Public Property</b>

**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 in any public place , 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. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

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

7. Knowingly and publicly uses the flag of the United States in such a manner s to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

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

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

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

9. 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 or to urinate or defecate in the presence of or in view of another, if the person knows or reasonably should know that such behavior would be offensive to a reasonable person.

(Code of Iowa, Sec. 709.9)

### **3-1-4 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 damage, obstruct, deface, alter, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the mayor and city council.

(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.

### **3-1-5 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 debris 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, other debris, or any other substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun, or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety.

4. 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.

5. 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.

6. Discharging firearms and fireworks.

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.

(Iowa Code, Sec. 727.2)

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, a law enforcement officer 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 theater, 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.

7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.

(Iowa Code, Sec. 727.2)

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

c. Prohibition. No person shall possess fireworks except as provided in this Chapter.

8. 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)

9. 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)

10. 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.

(Iowa Code, Sec. 718.4)

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.

11. 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))

12. 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)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the mayor or city council for such purposes.

(Code of Iowa, Sec. 364.12)

### **3-1-6 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 before it is ready for use.

(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, maliciously, or wantonly tear, deface, mutilate, injure, or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture, or other property belonging to 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 and maliciously 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 any public or private cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break, or injure any tree, shrub, plant, or lawn within the limits of the cemetery, or drive outside of said avenues and roads, and over the grass or graves of the 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)

9. 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, except by written authorization of the mayor.

(Code of Iowa, Sec. 716.1)

10. Injury to roads, railways, and other utilities. No person shall maliciously 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 maliciously 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)

11. 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)

12. 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**

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

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

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

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.

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

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, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, Sec. 657.2(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, unless it be in a building of fire resistant construction.

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

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

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

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. Growth of grass over 12" of height constitutes a health and safety hazard.

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

m. Trees infected with Dutch Elm disease.

(Code of Iowa, Sec. 657.2(13))

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. 368.1(6))

**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 connection to public drainage systems from abutting property when necessary for public health or safety.  
(Code of Iowa, Sec. 364.12(3)(e))

4. 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))

5. 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))

6. The numbering of buildings.  
(Code of Iowa, Sec. 364.12(3)(d))

7. Drug paraphernalia.

8. 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 of this chapter, the mayor or officer shall cause to be served upon the property owner as shown by the records of the county auditor a written notice 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 served by certified mail or personal service to the property owner as shown by the records of the county auditor.

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

**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 clerk-treasurer, 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-treasurer 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 treasurer 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 one hundred dollars (\$100.00), 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 a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 3 TRAFFIC CODE**

**3-3-1 Short Title**

**3-3-2 Definitions**

**3-3-3 Traffic Accident Reports**

**ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS**

**3-3-4 Authority of Police, First Responders and Fire Department Officials**

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**TRAFFIC CONTROL DEVICES**

**3-3-6 Authority to Install Traffic-Control Devices**

**3-3-7 City Council to Designate Crosswalks, Establish, and Mark Traffic Lanes**

**3-3-8 Play Streets**

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**3-3-9 Changing State Speed Limits in Certain Zones**

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**3-3-11 Authority to Place Restricted Turn Signs**

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**3-3-13 "U" Turns**

**ONE-WAY STREETS AND ALLEYS**

**3-3-14 Authority to Designate One-Way Streets and Alleys**

**3-3-15 Authority to Restrict Direction of Movement on Streets During Certain Periods**

**SPECIAL STOPS REQUIRED**

**3-3-16 Through Highways**

**3-3-17 Authority to Erect Stop Signs**

**3-3-18 Stops at Intersecting Through Highways and Other Intersections**

**3-3-19 Stop When Traffic Is Obstructed**

**3-3-20 School Stops**

**PEDESTRIANS' RIGHTS AND DUTIES**

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**3-3-22 Pedestrians on Left**

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**3-3-24 Standing or Parking on the Left-Hand Side of One Way Streets**

**3-3-25 Signs or Markings Indicating Angle Parking**

**3-3-26 Obedience to Angle Parking Signs or Markings**

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

**3-3-27 Stopping, Standing or Parking Prohibited in Specified Places**

**3-3-28 Authority to Paint Curbs and Erect Signs Prohibiting Standing or Parking**

**3-3-29 Authority to Impound Vehicles**

**STOPPING, STANDING OR PARKING**

**3-3-30 Parking Signs Required**

**3-3-31 Prohibited Parking During Snow Emergency**

**3-3-32 All-Night Parking Prohibited**

**3-3-33 Truck Parking Limited**

**MISCELLANEOUS DRIVING RULES**

- 3-3-34 Vehicles Not to be Driven on Sidewalks**
- 3-3-35 Clinging to Vehicles**
- 3-3-36 Parking for Certain Purposes Prohibited**
- 3-3-37 Driving Through Funeral or Other Procession**
- 3-3-38 Drivers in a Procession**
- 3-3-39 Funeral Processions to be Identified**
- 3-3-40 Load Restrictions Upon Vehicles Using Certain Streets**
- 3-3-41 Truck Routes**

**SNOWMOBILES & ALL-TERRAIN VEHICLES**

- 3-3-42 Definitions**
- 3-3-43 Permitted Areas of Operation**
- 3-3-44 Regulations**
- 3-3-45 Equipment Required**
- 3-3-46 Unattended Vehicles**
- 3-3-47 Restriction of Operation**
- 3-3-48 Traffic Regulation**

**BICYCLE REGULATIONS**

**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.

- 3-3-49 Traffic Code Applies to Persons Riding Bicycles**
- 3-3-50 Riding on Bicycles**
- 3-3-51 Riding on Roadways and Bicycle Paths**
- 3-3-52 Speed**
- 3-3-53 Emerging from Alley or Driveway**
- 3-3-54 Carrying Articles**
- 3-3-55 Parking**
- 3-3-56 Riding on Sidewalks**
- 3-3-57 Lamps and Other Equipment on Bicycles**

**GOLF CARTS**

- 3-3-58 Operation of Golf Carts**
- 3-3-59 Rules of Operation**
- 3-3-60 Use Restrictions**

**PENALTIES AND PROCEDURE ON ARREST**

- 3-3-61 Citation Placed on Illegally Parked Vehicle**
- 3-3-62 Presumption in Reference to Illegal Parking**
- 3-3-63 Local Parking Fines**
- 3-3-64 Failure to Pay Parking Citations**
- 3-3-65 Vehicular Noise**
- 3-3-66 Engine and Compression Brakes**

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.

6. "Residential districts" means all areas of the city not included in business districts.  
(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)

## **ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS**

**3-3-4 AUTHORITY OF POLICE, FIRST RESPONDERS, AND FIRE DEPARTMENT OFFICIALS.** Provisions of this chapter and Iowa law relating to motor vehicles and the laws of the road shall be enforced by officers of the police department. The law enforcement officers 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 may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the first responders and fire department may direct or assist law enforcement personnel in directing traffic thereat or in the immediate vicinity.  
(Code of Iowa, Sec. 321.229)

**3-3-5 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 law enforcement 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. 321.32, 321.174, 321.189, 321.193, and 321.218 through 321.224 -- display of registration and license to drive.

2. 321.229 through 321.234A -- obedience to a peace officer and responsibility of public officers, emergency vehicles and bicycles to obey traffic regulations.

3. 321.256 through 321.260 -- traffic signs, signals and markings, including right or left turns on red.

4. 321.261 through 321.266 and 321.268 -- accidents and accident reporting.

5. 321.275 -- operation of motorcycles.

6. 321.277, 321.277A, 321.278 321.285 321.288, 321.290, 321.294, and 321.295 -- reckless driving, drag racing, speed, control of vehicle and minimum speed.
7. 321.297 through 321.299, 321.302 through 321.310 -- driving on right, meeting, overtaking, following, or towing.
8. 321.311 through 321.318 -- turning and starting, signals on turning and stopping.
9. 321.319 through 321.324 -- right of way, left turns, entering through highways, and approaching certain stationery vehicles.
10. 321.325 through 321.334 and 321.340 -- pedestrian rights and duties and safety zones.
11. 321.341 through 321.344 -- railroad crossings.
12. 321.353 through 321.360 -- stop at sidewalks, stopping, standing, and parking.
13. 321.362 through 321.371 -- unattended vehicle, obstructing driver's view, crossing median, following fire apparatus, or crossing fire hose, and putting debris on streets.
14. 321.384 through 321.390, 321.392 through 321.398, 321.402 through 321.406, 321.408, 321.409, 321.415, 321.418 through 321.423 -- lighting equipment required and time of use. (Under the provisions of Section 321.395, motor vehicles parked where permitted by this ordinance need not have parking lamps lighted if the vehicle is within one hundred sixty (160) feet of a city street light ahead and to the rear of the vehicle and the permitted speed on said street is twenty-five (25) miles per hour or less.)
15. 321.430 through 321.434. 321.436 through 321.446, 321.449 and 321.450 -- brakes, horns, sirens, mufflers, wipers, mirrors, tires, windows, safety belts, and special markings for transporting explosives.
16. 321.452 through 321.463, 321.465 and 321.466 -- size, weight, and load.

## **TRAFFIC CONTROL DEVICES**

**3-3-6 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.** The mayor or city council 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 mayor or city council 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.

(Code of Iowa, Sec. 321.255)

**3-3-7 CITY COUNCIL TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES.** The city council 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 cause to be marked 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.

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

**3-3-8 PLAY STREETS.** The city council 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.

(Code of Iowa, Sec. 321.255)

**SPEED REGULATIONS**

**3-3-9 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES.** It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by state law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Business or residential district: 25 miles per hour.
2. School zones, parks, cemeteries and parking lots: 15 miles per hour.

(Code of Iowa, Sec. 321.290)

3. Excessive Acceleration. It shall be unlawful for any person in the operation of a motor vehicle, including motorcycles, to accelerate such vehicle as to cause audible noise by the friction of tires on the pavement, or to cause the tires of the vehicle to leave skid marks on the pavement, or to cause the front wheel of a motorcycle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid a collision.

**TURNING MOVEMENTS**

**3-3-10 TURNING MARKERS, BUTTONS, AND SIGNS.** The city council 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 city council 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.

**3-3-13 "U" TURNS.** It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

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

## **ONE-WAY STREETS AND ALLEYS**

**3-3-14 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS.** Whenever any traffic code of this city designates any one-way street or alley, the mayor or city council 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.

**3-3-15 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.** The mayor is authorized to determine and recommend to the city 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**

**3-3-16 THROUGH HIGHWAYS.** Streets or portions of streets described below are declared to be through highways:

1. Iowa State Highway 83.

2. Iowa State Highway 148.

(Code of Iowa, Sec. 321.345 & 321.350)

**3-3-17 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.

**3-3-18 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 city council 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 mayor, and, upon approval of the mayor, shall cause to be erected an appropriate sign at every place where a stop or yield is required.

**3-3-19 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.

**3-3-20 SCHOOL STOPS.** When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

#### **PEDESTRIANS' RIGHTS AND DUTIES**

**3-3-21 PROHIBITED CROSSING.** Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

**3-3-22 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**

**3-3-23 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)

**3-3-24 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS.**

No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

**3-3-25 SIGNS OR MARKINGS INDICATING ANGLE PARKING.** The city council, 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 city council resolution.

Motor vehicles shall angle park on the following streets:

1. Main Street, both sides, from Locust to Cherry Street, inclusive.
2. Chestnut Street, both sides, between First Street and Main Street; and between Main Street and the alley located between Main Street and Third Street.
3. Walnut Street, both sides, between First Street and Main Street; and on the westerly side between Main Street and the alley located between Main Street and Third Street.

(Code of Iowa, Sec. 321.361)

**3-3-26 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**

**3-3-27 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 law enforcement 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.

16. Airport Parking. It shall be unlawful for a driver to park any vehicle other than an airplane, or any other than one used for emergency purposes, or any other than one used for maintenance purposes on any runway or taxiway of the Anita Municipal Airport. It shall be unlawful for any driver of any motor vehicle to park said motor vehicle on any part of the airport of the City of Anita or within fifty (50) feet thereof in any direction and in any area that is designated as "restricted", provided however, that no area shall be deemed to be designated "restricted" unless signs labeling such area as "restricted" are in place.

**3-3-28 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 council 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 council, 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))

**3-3-29 AUTHORITY TO IMPOUND VEHICLES.** Members of the council 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 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**

**3-3-30 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 mayor 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.

(Code of Iowa, Sec. 321.236)

**3-3-31 PROHIBITED PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or city-owned off-street parking area during any snow emergency proclaimed by the mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

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

**3-3-32 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.

**3-3-33 TRUCK PARKING LIMITED.** Trucks weighing five (5) tons or more, loaded or empty, shall not be parked on any interior streets within the city.

### **MISCELLANEOUS DRIVING RULES**

**3-3-34 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS.** The driver of a vehicle shall not drive upon or within any sidewalk area.

**3-3-35 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.

**3-3-36 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.

**3-3-37 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.

**3-3-38 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.

**3-3-39 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 law enforcement officers.

**3-3-40 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the load restriction specified on the signs at any time on any street.

**3-3-41 TRUCK ROUTES.**

1. Every motor vehicle weighing five (5) tons or more, 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 over or upon the following streets within the city and none other:

- a. Iowa State Highway 83.
- b. Iowa State Highway 148.
- c. Locust Street from 2nd Street to the NCL.
- d. Walnut Street from 2nd Street to the NCL.

2. Any motor vehicle weighing five tons or more, 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.

**SNOWMOBILES & ALL-TERRAIN VEHICLES**

**3-3-42 DEFINITIONS**

1. "All-Terrain Vehicles" means a motorized flotation-tire vehicle with not less than three low pressure tires, but not more than six low pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than eight hundred cubic centimeters and in total dry weight to less than seven hundred fifty pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

2. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis, or runners.

3. "Operate" means to control the operation of a snowmobile.

4. "Operator" means a person who operates or is in actual control of a snowmobile.

**3-3-43 PERMITTED AREAS OF OPERATION.** Snowmobiles and all-terrain vehicles will be allowed to operate in the city as follows:

1. As shown on the approved snowmobile and all-terrain vehicle route map contained in the addendum hereto.

The routes established herein shall be the only permitted snowmobile and all-terrain vehicle routes and said vehicles shall be operated within the roadways of public streets and shall also be subject to the following regulations.

**3-3-44 REGULATIONS.** It shall be unlawful for any person to operate a snowmobile or all-terrain vehicle 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 vehicle registered as provided for by Iowa Statute except that this provision shall not apply to the operation of said vehicle on the private property of the owner by the owner or a member of his or her 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 eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading vehicle from another vehicle or trailer.

**3-3-45 EQUIPMENT REQUIRED.** All snowmobiles and all-terrain vehicles 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 condition and at least one headlight and one taillight.

3. At least one headlight and one taillight in good operating condition.

4. 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.

**3-3-46 UNATTENDED VEHICLES.** It is unlawful for the owner or operator to leave or allow a snowmobile or all-terrain vehicle to be or remain unattended on public property while the motor is running or the key left in the ignition.

**3-3-47 RESTRICTION OF OPERATION.** The city council may, by resolution, prohibit the operation of snowmobiles or all-terrain vehicles 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.

**3-3-48 TRAFFIC REGULATION.** Each person operating a snowmobile or all-terrain vehicle 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 law enforcement officer of the city authorized to direct or regulate traffic.

## **BICYCLE REGULATIONS**

**3-3-49 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.

**3-3-50 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.

**3-3-51 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.

**3-3-52 SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

**3-3-53 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.

**3-3-54 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.

**3-3-55 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.

**3-3-56 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.

**3-3-57 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 five hundred (500) feet to the front and with a red reflector on the rear of a type that is visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, and clean pavement.

## **GOLF CARTS**

**3-3-58 OPERATION OF GOLF CARTS.** Operating golf carts on city streets is allowed in accordance with the following rules for operation and restrictions set forth in this chapter.

**3-3-59 RULES OF OPERATION.** The following rules shall apply to the operation of golf carts within the city limits:

1. Golf carts may only be operated on city streets by persons possessing a valid motor vehicle license.

2. Any golf cart operated on the city's streets shall be equipped with a slow moving vehicle sign, a bicycle safety flag, and be equipped with adequate brakes.

3. Golf carts shall only be operated on city streets from sunrise to sunset.

4. Golf carts shall not be subject to the registration provisions of Chapter 321 of the Code of Iowa.

**3-3-60 USE RESTRICTIONS.** Golf carts shall not be operated on the following City streets:

**PENALTIES AND PROCEDURE ON ARREST**

**3-3-61 CITATION 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.

**3-3-62 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.

**3-3-63 LOCAL PARKING FINES.** Scheduled fines as follows are established, payable by mail or in person at the city clerk's office within thirty (30) days of the violation, for the following parking violations:

- |                                      |          |
|--------------------------------------|----------|
| 1. Overtime parking                  | \$ 5.00  |
| 2. Prohibited parking                | \$ 5.00  |
| 3. No parking zone                   | \$ 5.00  |
| 4. Blocking alley                    | \$ 5.00  |
| 5. Illegal parking                   | \$ 5.00  |
| 6. Street cleaning                   | \$ 5.00  |
| 7. Snow removal ban                  | \$ 5.00  |
| 8. Persons with disabilities parking | \$100.00 |

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

**3-3-64 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.

**3-3-65 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) feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

### **3-3-66 ENGINE AND COMPRESSION BRAKES.**

1. It shall be unlawful for the driver of any motor 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 motor 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 (300) feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 4 FIRE PROTECTION

#### 3-4-1 Establishment and Purpose

#### 3-4-2 Volunteer Fire Fighters

#### 3-4-3 Fire Fighter's Duties

#### 3-4-4 Worker's Compensation and Hospitalization Insurance

#### 3-4-5 Liability Insurance

#### 3-4-6 Fires Outside City Limits

**3-4-1 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)

**3-4-2 VOLUNTEER FIRE FIGHTERS.** Thirty (30) residents of Cass County, Iowa, at least age eighteen (18) may be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four (4) years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

**3-4-3 FIRE FIGHTER'S DUTIES.** When called by the fire chief, all fire fighters shall report for duty immediately in the manner directed by the fire chief. All firefighters 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 fire chief to be in command temporarily. Fire fighters shall report for training as ordered by the fire chief.

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

**3-4-4 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.

**3-4-5 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.

**3-4-6 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.

(Code of Iowa, Sec. 364.16)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 5 JUNK AND ABANDONED VEHICLES**

<b>3-5-1 Purpose</b>	<b>3-5-8 Junk Vehicles Declared a Nuisance</b>
<b>3-5-2 Definitions</b>	<b>3-5-9 Notice to Abate</b>
<b>3-5-3 Removal of Abandoned Vehicles</b>	<b>3-5-10 Abatement by Municipality</b>
<b>3-5-4 Notification of Owners and Lienholders</b>	<b>3-5-11 Collection of Cost of Abatement</b>
<b>3-5-5 Impoundment Fees and Bonds</b>	<b>3-5-12 Exceptions</b>
<b>3-5-6 Hearing Procedures</b>	<b>3-5-13 Interference with Enforcement</b>
<b>3-5-7 Auction or Disposal of Abandoned Vehicles</b>	<b>3-5-14 Enforcement by Civil Penalty</b>

**3-5-1 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)

**3-5-2 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 unsafe;

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

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

(Code of Iowa, Sec. 321.89(1)(a)(2))

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;

(Code of Iowa, Sec. 321.89(1)(a)(3))

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

(Code of Iowa, Sec. 321.89(1)(a)(4))

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)(a)(5))

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 vehicle without current license plates or has any one of the following characteristics:

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

b. Any vehicle with a broken or loose fender, door, bumper, hood, , door handle, window handle, steering wheel, trunk top, 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 vehicle which contains gasoline or any other flammable fuel not contained in the vehicle's fuel cell as installed by the manufacturer of the vehicle.

e. Any motor vehicle which lacks an engine, two or more wheels or other structural parts which render said motor vehicle totally inoperable.

f. 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)

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.

### **3-5-3 REMOVAL OF ABANDONED VEHICLES.**

1. The police chief may, without prior notice or hearing, cause to be removed and impound any abandoned vehicle as defined in section 3-5-2 (1). The police chief 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.

### **3-5-4 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 twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- 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 3-5-6.

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 3-5-5.

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

2. The owner, lienholders, or any person receiving notice may, by written request received by the police chief 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,
- b. the registration contains no address for the owner,
- c. it is impossible to determine with reasonable certainty the identity and addresses 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))

### **3-5-5 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, and
- e. notice charges.

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

2. The amount of the charges specified in subsections 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 3-5-4 (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 Sec. 3-5-5(1), and

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.

**3-5-6 HEARING PROCEDURES.** 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 Section 1-4-1.

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

**3-5-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES.** The chief of police shall follow the procedures as provided in Section 321.89(4) of the Iowa Code for the auction or disposal of abandoned vehicles.

**3-5-8 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 Anita, 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 or the person occupying the property upon which it is located shall be *prima facie* liable for said violation.

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

**3-5-9 NOTICE TO ABATE.**

1. Whenever the mayor shall find a junk vehicle placed or stored on public or private property within the city in violation of 3-5-8, the mayor shall notify, by certified mail with five-days return receipt, the following persons:

a. the owner of the property; and

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

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

**3-5-10 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. The city shall keep an accurate account of the expense incurred. The itemized expense account shall be filed with the city clerk who shall pay expenses on behalf of the municipality.

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

**3-5-11 COLLECTION OF COST OF ABATEMENT.** The city 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 thirty days, the city 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))

**3-5-12 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 Restricted Residence District of this city, when necessary to the operation of said business enterprise; and
3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this city.

**3-5-13 INTERFERENCE WITH ENFORCEMENT.** No person shall interfere in any way with the enforcement provision of this chapter.

**3-5-14 ENFORCEMENT BY CIVIL PENALTY.** This ordinance may be enforced by civil penalty as described in Title I, Chapter 3 of this code of ordinances.

(Code of Iowa, Sec. 346.22(3))

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 6 CIGARETTE LICENSE**

<b>3-6-1</b>	<b>Definitions</b>	<b>3-6-6</b>	<b>Refunds</b>
<b>3-6-2</b>	<b>Permit Required</b>	<b>3-6-7</b>	<b>Suspension; Revocation; Civil Penalty</b>
<b>3-6-3</b>	<b>Issuance</b>	<b>3-6-8</b>	<b>Permits not Transferable</b>
<b>3-6-4</b>	<b>Expiration</b>	<b>3-6-9</b>	<b>Display</b>
<b>3-6-5</b>	<b>Fees</b>		

**3-6-1 DEFINITIONS.** For use in this Chapter the following terms are defined as follows:

1. "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(3))

2. "Retailer" shall mean and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(21))

3. "Place of business" shall mean and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(23))

**3-6-2 PERMIT REQUIRED.** No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Anita, Iowa, without a valid permit for each place of business. The Permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13)

**3-6-3 ISSUANCE.** The City Council shall issue, or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-6-5.

(Code of Iowa, Sec. 453A.13(2)(a))

**3-6-4 EXPIRATION.** Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

**3-6-5 FEES.** The fee for Permits issued or renewed in July, August, or September is \$75.00. The fee for Permits issued in October, November, or December is \$56.25; in January, February, or March, \$37.50; and in April, May, or June, \$18.75.

(Code of Iowa, Sec. 453A.13(3))

**3-6-6 REFUNDS.** A retailer may surrender an unrevoked Permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

(Code of Iowa, Sec. 453A.13(4)(a))

**3-6-7 SUSPENSION; REVOCATION; CIVIL PENALTY.**

1. If a retailer or employee of a retailer has violated Sections 453A.2, 453A.36, subsection 6 or 453A.39 of the Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

(Code of Iowa, Sec. 453A.22(2)(a))

b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.

(Code of Iowa, Sec. 453A.22(2)(b))

c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

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

d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

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

e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

(Code of Iowa, Sec. 453A.22(2)(e))

f. If an employee of a retailer violates section 453A.2, subsection 1, of the Code of Iowa, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the

number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 4 against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

(Code of Iowa, Sec. 453A.22(3))

2. If a retail Permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

(Code of Iowa, Sec. 453A.22(6))

3. The City Clerk shall report the suspension or revocation of a retail Permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

(Code of Iowa, Sec. 453A.22(7))

**3-6-8 PERMITS NOT TRANSFERABLE.** A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid Permit moves the place of business, the city council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original Permit if the retailer has not received a refund for surrender of the original permit.

**3-6-9 DISPLAY.** The permit shall be displayed in the place of business so that it can be seen easily by the public.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 ALCOHOLIC BEVERAGES

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

**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 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration – Seasonable, Five Day, or Fourteen-Day License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
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 of Liquors Prohibited

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration
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. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 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 CURFEW FOR MINORS**

<b>3-8-1</b>	<b>Preamble</b>	<b>3-8-4</b>	<b>Offenses</b>
<b>3-8-2</b>	<b>Findings and Purpose</b>	<b>3-8-5</b>	<b>Defenses</b>
<b>3-8-3</b>	<b>Definitions</b>	<b>3-8-6</b>	<b>Enforcement</b>

**3-8-1 PREAMBLE.** The City of Anita 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)

**3-8-2 FINDINGS AND PURPOSE.** The city has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Anita; and

Persons under the age of seventeen (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 Anita 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.

**3-8-3 DEFINITIONS.** In this Chapter:

1. "Curfew hours" shall mean 12:01 a.m. until 5:00 a.m..
2. "Emergency" shall mean 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" shall mean 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" shall mean:
  - 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" shall mean any person under seventeen (17) years of age.
6. "Operator" shall mean 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" shall mean a person who is:
  - a. A biological parent, adoptive parent or step-parent of another person; or
  - b. At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. "Public place" shall mean 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" shall mean 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" shall mean 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.

#### **3-8-4 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.

### **3-8-5 DEFENSES.**

1. It is a defense to prosecution under this chapter if 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 Anita, 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 Anita, 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 3-8-4(3) if 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.

### **3-8-6 ENFORCEMENT.**

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-8-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Anita.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 9 DRUG PARAPHERNALIA

#### 3-9-1 Definitions

#### 3-9-3 Prohibition

#### 3-9-2 Exemption

**3-9-1 DEFINITIONS.** As used in this section, "drug paraphernalia" shall mean all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

1. Manufacture a controlled substance;
2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance;
3. Test the strength, effectiveness, or purity of a controlled substance; or
4. Enhance the effect of a controlled substance.

(Code of Iowa, sec. 124.414)

**3-9-2 EXEMPTION.** "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

(Code of Iowa, sec. 124.414)

**3-9-3 PROHIBITION.** It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 10 REGULATING PEDDLERS, SOLICITORS  
AND TRANSIENT MERCHANTS**

<b>3-10-1</b>	<b>Definitions</b>	<b>3-10-7</b>	<b>Bond Required</b>
<b>3-10-2</b>	<b>Exemptions</b>	<b>3-10-8</b>	<b>Obstruction of Pedestrian or Vehicular Traffic</b>
<b>3-10-3</b>	<b>Permits</b>	<b>3-10-9</b>	<b>Display of Permit</b>
<b>3-10-4</b>	<b>Requirements</b>	<b>3-10-10</b>	<b>Permit Not Transferable</b>
<b>3-10-5</b>	<b>Hours of Solicitation</b>	<b>3-10-11</b>	<b>Revocation of Permit</b>
<b>3-10-6</b>	<b>Consumer Protection Law</b>		

**3-10-1 DEFINITIONS.** For use in this Chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this Chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes any merchant, whether an individual person, a firm, corporation, partnership or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this Chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

**3-10-2 EXEMPTIONS.** The provisions of this Chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

**3-10-3 PERMITS.** Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-10-4 and 3-10-5. This permit shall extend no longer than sixty (60) days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

**3-10-4 REQUIREMENTS.** Any applicant engaged in any activity described in 3-10-1 of this Chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number;
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made;
3. A brief description of the nature of the sales method;
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale;
5. Length of time for which the permit is desired;
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty; and
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

**3-10-5 HOURS OF SOLICITATION.** No person may conduct those activities described in Section 3-10-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

**3-10-6 CONSUMER PROTECTION LAW.** All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a "Notice of Cancellation" to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

**3-10-7 BOND REQUIRED.** Before a permit under this Chapter is issued, each person subject to this Ordinance shall post with the City Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary to: (1) indemnify the city for any penalties or costs occasioned by the enforcement of this Chapter, and (2) make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's

peddling or solicitation. The bond shall not be retired until one (1) year from the expiration of the permit.

**3-10-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC.** No person, while engaged in any of the practices described in Section 3-10-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

**3-10-9 DISPLAY OF PERMIT.** Each solicitor or peddler shall at all times while doing business in this city keep in his or her possession the permit provided for in Section 3-10-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

**3-10-10 PERMIT NOT TRANSFERABLE.** Permits issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**3-10-11 REVOCATION OF PERMIT.** The City Council, after notice and hearing, may revoke any permit issued under this Ordinance where the permittee, in the course of conducting his or her business, has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted his or her business in an unlawful manner.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 11 RAILROAD REGULATION

<b>3-11-1</b>	<b>Definitions</b>	<b>3-11-4</b>	<b>Street Crossing Obstructions</b>
<b>3-11-2</b>	<b>Warning Signals</b>	<b>3-11-5</b>	<b>Maintenance of Crossings</b>
<b>3-11-3</b>	<b>Street Crossing Signs and Devices</b>	<b>3-11-6</b>	<b>Flying Switches</b>

**3-11-1 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. The term does not include interurbans, light rail 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.

**3-11-2 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 3-11-5 of this chapter.

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

**3-11-3 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 on 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)

**3-11-4 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 (10) 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; or
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.

**3-11-5 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)

**3-11-6 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 railroad car's or railroad cars' approach.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 12 SEX OFFENDER RESIDENCY**

<b>3-12-1 Purpose</b>	<b>3-12-5 Violations</b>
<b>3-12-2 Definitions</b>	<b>3-12-6 Severability Clause</b>
<b>3-12-3 Residency Restricted</b>	<b>3-12-7 Effective Date</b>
<b>3-12-4 Residency Exceptions</b>	

**3-12-1 PURPOSE.** This chapter is a regulatory measure aimed at protecting the health and safety of children in Anita from the risk that convicted sex offenders may re-offend in locations close to their residences. As recognized by the Eighth Circuit United States Court of Appeals in its April 29, 2005 decision of *Doe v. Miller*, and as recognized by the Iowa Supreme Court in *State v. Seering*, decided on July 29, 2005, the city finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and day care centers. The city finds and declares that in addition to schools and daycare centers, children congregate or play at public parks, swimming pools, multi-use recreational trails, and libraries, School bus Stops, and other places children regularly congregate.

**3-12-2 DEFINITIONS.** For the purpose of this ordinance the following shall be defined as shown herein:

1. Sex Offender- A person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.
2. Corporate City Limits- That area comprised and defined by the City of Anita, Code of Ordinances current and future.
3. “Aggravated offense” means a conviction for any of the following offenses:
  - a Sexual abuse in the first degree in violation of Iowa Code section 709.2
  - b Sexual abuse in the second degree in violation of Iowa Code section 709.3
  - c Sexual abuse in the third degree in violation of Iowa Code section 709.4
  - d Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.
  - e Assault with intent to commit sexual abuse in violation of Iowa Code section

709.11

f Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph “d”.

g Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

h Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

i Criminal transmission of human immunodeficiency virus in violation of Iowa Code section 709C.1, subsection 1, paragraph “a”.

j Any amendments, additions, alterations or new Iowa Code Sections that are similar in intent to those listed above.

4. “Criminal offense against a minor” means any of the following criminal offenses or conduct:

a Kidnapping of minor, except for the kidnapping of a minor in the third degree committed by a parent.

b False imprisonment of a minor, except if committed by a parent.

c Any indictable offense involving sexual conduct directed toward a minor.

d Solicitation of a minor to engage in an illegal sex act.

e Use of a minor in a sexual performance.

f Solicitation of minor to practice prostitution.

g Any indictable offense against a minor involving sexual contact with the minor.

h An attempt to commit an offense enumerated in this subsection.

i Incest committed against a minor.

j Dissemination and exhibition of obscene material to minors in violation of Iowa Code section 728.2.

k Admitting minors to premises where obscene material is exhibited in violation of Iowa Code section 728.3.

l Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph “b”, subparagraph 93), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.

- m Sexual exploitation of a minor in violation of Iowa Code section 728.12.
- n Enticing away a minor in violation of Iowa Code section 710.10, subsection 1.
- o An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (n).
- p Any amendments, additions, alterations or new Iowa Code Sections that are similar in intent to those listed above.

5. “Person” means a person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

6. “Residence” means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

7. “Sexually violent offense” means any of the following indictable offenses:

- a Sexual abuse as defined under Iowa Code Section 709.1.
- b Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
- c Sexual misconduct with offenders in violation of Iowa Code section 709.16.
- d Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
- e A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.

8. “Other relevant offense” means any of the following offenses:

- a Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.
- b Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.
- c Indecent exposure in violation of Iowa Code section 709.9.
- d Incest committed against a dependent adult as defined in Iowa Code section 235B.2 in violation of Iowa Code section 726.2.

e A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs (a) through (d) if committed in this state.

**3-12-3 RESIDENCY RESTRICTED.** A sex Offender shall not reside within the corporate city limits of Anita.

**3-12-4 RESIDENCY EXCEPTIONS.** A person residing within the corporate city limits of Anita does not commit a violation of this chapter if any of the following apply:

a The person is required to serve a sentence at a jail, prison, juvenile facility, or other correction institution or facility.

b The person is subject to an order of commitment under chapter 229A of the Iowa Code.

c The person was living at the residence in question prior to the effective date of this ordinance.

d The person is a minor or a ward under a guardianship.

**TITLE IV MENTAL AND PHYSICAL HEALTH**

**CHAPTER 1 ANIMAL CONTROL**

<b>4-1-1</b>	<b>Definitions</b>	<b>4-1-7</b>	<b>Impounding</b>
<b>4-1-2</b>	<b>License</b>	<b>4-1-8</b>	<b>Right to Kill an Unlicensed or Licensed Dog or Cat</b>
<b>4-1-3</b>	<b>Immunization</b>	<b>4-1-9</b>	<b>Dangerous Animals</b>
<b>4-1-4</b>	<b>At Large Prohibited</b>	<b>4-1-10</b>	<b>Keeping a Vicious Animal</b>
<b>4-1-5</b>	<b>Animal Nuisances</b>	<b>4-1-11</b>	<b>Commercial Breeder</b>
<b>4-1-6</b>	<b>Regulation of Farm Animals</b>		

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

1. The term "dogs" shall mean 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 owning, keeping, sheltering or harboring an animal.

**4-1-2** **LICENSE.** Every owner of a dog over the age of six (6) months shall procure a dog license from the city clerk prior to April 1 of each year. The annual license fee shall be seven dollars and 50/100 (\$7.50) for each dog, and five dollars (\$5.00) for each cat.

Upon payment of the license fee, and providing proof of a current vaccination against rabies, the City Clerk-Treasurer 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 dog or cat. The City Clerk-Treasurer shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk-Treasurer shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license is issued.

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

**4-1-3** **IMMUNIZATION.** All dogs or cats six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It

shall be a violation of this ordinance for any dog 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)

**4-1-4 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)

**4-1-5 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; or

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

(Code of Iowa, Sec. 657.1(1))

Animals shall be considered a nuisance if more than two cats or two dogs are maintained within one property.

#### **4-1-6 REGULATION OF FARM ANIMALS.**

1. No person, firm, association or corporation in the City of Anita shall have in their possession or control, or keep or harbor any farm animals, as defined in Section 4-1-1, without having first obtained a permit to do so from the mayor or his designee, which permit shall be issued only after payment of the required fee and after inspection of the premises by the mayor or his designee for compliance with the requirements of the zoning ordinance, and the sanitation requirements of this chapter or any other applicable state or local law. A permit for the keeping of farm animals shall be in effect for one year from the date of its issuance.

2. Application for such permits shall be made upon forms furnished by the city.

3. Upon expiration, such permit may be renewed by any person, firm, association or corporation to whom it has been issued, by filing an application for a renewal thereof with the mayor or his designee upon forms to be provided by the city. Approval of the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with the Zoning Ordinance and amendments thereto, and the sanitation requirements of this chapter or any other applicable state or local law. Every permit so renewed shall be for a period of one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

4. Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged or otherwise confined as household pets within a residence, shall be exempt from the permit requirements of this section.

5. In areas designated for agricultural purposes for the adopted land use plan of the city where farm animals are kept on property that exceeds five (5) acres in total area, no permits for keeping farm animals shall be required. However, no person, firm, association, or corporation keeping or harboring farm animals in such areas shall allow the animals to be closer than seventy-five feet to any residential dwelling.

#### **4-1-7 IMPOUNDING.**

1. Any animal found at large or any licensed dog found at large in violation of Sections 4-1-3 and 4-1-4 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. Due diligence shall be used to identify and notify the owner(s) of any animal found at large and impounded within two (2) days, and that upon payment of impoundment penalty fee of \$25.00 plus a kennel charge of \$10.00 per day, the animal 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 as provided in Section 717B.4 of the Code of Iowa.

3. Impounded animals may be recovered by the owner, upon proper identification, payment of impoundment penalty fee and kennel costs, the costs of vaccination if vaccination is required by Section 4-1-3, and neutering. If such animals are not claimed within seven (7) days after notice, they shall be disposed of as provided in Section 717B.4 of the Code of Iowa..

(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.

(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)

**4-1-8 RIGHT TO KILL AN UNLICENSED OR LICENSED DOG OR CAT.** It shall be lawful for any person to kill a dog, unlicensed, or licensed and wearing a collar with license tag attached, where such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

(Code of Iowa, Sec. 351.27)

#### **4-1-9 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) Staffordshire terriers - known as pit bulls; or

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

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

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.

b. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show.

**4-1-9 KEEPING A VICIOUS ANIMAL.** It shall be unlawful for any person or persons to harbor or keep a vicious animal within the city. A vicious animal is so deemed when it shall

have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

**4-1-10 COMMERCIAL BREEDER.** Any person or firm wishing to raise animals within the corporate city limits shall apply to the city council in writing for a Commercial Breeder's License. The annual cost of said license shall be \$50.00, renewable at the first meeting in April. The application for license shall include a description of the type(s) of animal to be raised, their approximate and maximum numbers, a site description of the area where the animals shall be located and a description fo the facility or building the animals shall be kept. The owner shall state what actions will be taken to keep noise, odor and pestilence within reasonable levels. No animals shall be allowed within 75 feet of another residence. A license will not be issued without specific action on the part of the city council to be recorded in the official city minutes.

**TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE**

**CHAPTER 1 LIBRARY SERVICES**

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

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

**5-1-2 LIBRARY TRUSTEES.** The board of trustees of the Anita Public Library, hereinafter referred to as the Board, consists of five (5) members. All board members shall be appointed by the mayor and approved by the city council.

(Code of Iowa, Sec. 392.5)

**5-1-3 QUALIFICATIONS OF TRUSTEES.** All of the members of the Board shall be bona fide citizens and residents of Iowa and all 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. Each term shall commence on July first. One-third of the total number of Board members, or as near as possible, shall be appointed every two (2) years for the purpose of staggering the terms.

(Code of Iowa, Sec. 336.5)

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from their place of designation 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.

(Code of Iowa, Sec. 336.6)

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

(Code of Iowa, Sec. 336.7)

**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;

(Code of Iowa, Sec. 336.8(1))

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

(Code of Iowa, Sec. 336.8(2))

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;

(Code of Iowa, Sec. 336.8(3))

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 of the Code of Iowa;

(Code of Iowa, Sec. 336.8(4))

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;

(Code of Iowa, Sec. 336.8(5))

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

(Code of Iowa, Sec. 336.8(6))

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;

(Code of Iowa, Sec. 336.8(7))

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;

(Code of Iowa, Sec. 336.8(8))

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. 336.8(9))

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; and

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.

(Iowa Code, Sec. 336.17)

14. To provide the city council with a monthly report, including the following information:

a. The number of hours worked by all library employees for the month and the hourly wage or salary paid each of them by the city,

b. Monthly library bills which are approved and paid by the board, and,

c. A budget analysis showing the annual budget by category and the amount remaining by category after the monthly bills are paid.

15. To prepare and publish a projected budget at the beginning or each fiscal year and an actual budget at the end of each fiscal year disclosing the balance of any and all library funds and accounts and the source and use of all funds.

#### **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) & (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; and

4. By establishing branch libraries for lending 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, and any revenue generated through the use of the library, shall be set aside in an account for the use by the board to pay for the operation of the library.

**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.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 UTILITIES - SANITARY SYSTEM

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

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

1. Biochemical Oxygen Demand ("BOD") 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.

(Iowa Administrative Code, Sec. 567-69.3(1))

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

(Iowa Administrative Code, Sec. 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 Anita 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.

#### **6-1-2 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 the 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 the 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 any 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, provided that said public sewer is within one hundred fifty (150) 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))

### **6-1-3 PRIVATE SEWAGE DISPOSAL.**

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-1-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system, the property owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the city at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy-two (72) hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations and guidelines of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-1-2(4), a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

8. When a public sewer becomes available, the building sewer shall be connected, at the building owner's expense, to the public sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

#### **6-1-4 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.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A connection and inspection fee of three hundred dollars (\$300.00) shall be paid to the city at the time the application is filed.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Anita and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Anita pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Anita and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property 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's sewers may be used in connection with new building's 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, 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 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 one-hundred (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 caused by breaking any mains or service pipes, or by reason of any other interruption of the service caused by breaking of machinery or stoppage for necessary repairs. 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.

#### **6-1-5 USE OF THE PUBLIC SEWERS.**

1. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

Applications may be cancelled 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. Misrepresentation in the application as to the property or fixtures to be serviced by the sanitary sewer system;
- b. Non-payment of bills; or
- c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. 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 any 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 creates 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 or milk containers, 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; (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; (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 approval is 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 degrees (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 degrees (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; and

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 6-1-5(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 require any one or all of the following:

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;

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 6-1-5(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 twenty-four (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.

#### **6-1-6 PROTECTION FROM DAMAGE.**

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### **6-1-7 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 6-1-7(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 6-1-5(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.

#### **6-1-8 PENALTIES.**

1. Any person found to be violating any provision of this ordinance except Section 6-1-6, 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.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 2 UTILITIES - SEWER RATES**

- 6-2-1 Sewer District Created**
- 6-2-2 Sewer System Defined**
- 6-2-3 Who Shall Pay Rent**
- 6-2-4 Normal Monthly Charges**
- 6-2-5 Billing, Penalty**
- 6-2-6 Discontinuing Service, Fees**
- 6-2-7 Residential Rental Property**
- 6-2-8 Customer Guarantee Deposits**
- 6-2-9 Rental Rates**

**6-2-1 SEWER DISTRICT CREATED.** One sewer district is hereby created which includes all of the City of Anita, Iowa.

**6-2-2 SEWER SYSTEM DEFINED.** For use within this ordinance a "sewer system" is composed of main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels, and sewer connections in public streets for private property.

**6-2-3 WHO SHALL PAY RENT.** Every person, firm or corporation whose premises now or hereafter are directly or indirectly served by a connection to the city sewer system shall pay rent to the city at a rate and in the manner provided in Section 6-2-4.

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

**6-2-4 NORMAL MONTHLY CHARGES.** For all contributors monthly sewer charges will be based on monthly water usage. If a commercial or industrial contributor has a consumptive collection system, the user charge for that contributor may be based on a wastewater meter installed and maintained at the contributor's expense, and in a manner acceptable to the city.

**6-2-5 BILLING, PENALTY.** Utility bills shall be due when rendered and shall become delinquent after the tenth (10<sup>th</sup>) of each month following the period for which service was provided and billed. Bills shall have a penalty of 1½ percent per month of the principal sum added after the twentieth (20<sup>th</sup>) of each month. Payment shall be made to the utilities clerk of the Anita Municipal Utilities.

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

**6-2-6 DISCONTINUING SERVICE, FEES.**

1. If any account is not paid within thirty days from the end of any given period. The service to such owner or person so supplied with the utility shall be discontinued following the rules and regulations set forth by the Iowa Utilities Board or other appropriate agency.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any ordinance, a fee established and publicized by the Anita Municipal Utilities Board of Trustees, shall be paid to the utilities 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))

**6-2-7 RESIDENTIAL RENTAL PROPERTY.** For residential rental property where a charge for sewer service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for delinquent rates or charges after the landlord gives written notice to the city that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety days of sewer service is paid to the utility. Upon receipt, the utility shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city shall return the deposit if the sewer service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a sewer service if the repair charges become delinquent.

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

**6-2-8 CUSTOMER GUARANTEE DEPOSITS.** Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay sewer bills rendered. Such deposit shall be one and the same as provided in Section 6-4-7, and shall be equal seventy-five (\$75.00) dollars for each premise served. 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 utilities clerk to require a new or larger deposit for the continuation of service.

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

**6-2-9 RENTAL RATES.**

1. Each user shall pay for the services provided by the city based on use of the treatment works as determined by water meter(s) acceptable by the city.

2. For residential contributors, monthly user charges will be based on average monthly water usage during the months of January, February, and March. If a residential contributor has not established a January, February, and March average, the monthly user charge shall be the median charge of all other residential users.

For industrial and commercial contributors, user charges shall be based on water used during the current month. If a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city.

3. The charge for sanitary sewer service in Anita shall be \$0.15 per 100 gallons of metered water used during the service period (month). The minimum charge per month for each connection shall be \$7.50.

4. For those contributors who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. Said surcharge for operation and maintenance including replacement is:

\$0.473 per pound BOD

\$0.510 per pound SS

5. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall be as determined by the responsible wastewater systems superintendent and approved by the city council.

6. The user charge rates established in this article apply to all users, regardless of their location in regards to the city's treatment works.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 UTILITIES - WATER SYSTEM

<b>6-3-1</b>	<b>Enforcement</b>	<b>6-3-7</b>	<b>Water Supply Control</b>
<b>6-3-2</b>	<b>Adoption of State Plumbing Code</b>	<b>6-3-8</b>	<b>Making the Connection</b>
<b>6-3-3</b>	<b>License Required</b>	<b>6-3-9</b>	<b>Excavations</b>
<b>6-3-4</b>	<b>Mandatory Connections</b>	<b>6-3-10</b>	<b>Inspection and Approval</b>
<b>6-3-5</b>	<b>Permit</b>	<b>6-3-11</b>	<b>Completion by the City</b>
<b>6-3-6</b>	<b>Fee for Permit</b>	<b>6-3-12</b>	<b>Meter Accuracy and Test</b>

**6-3-1 ENFORCEMENT.** Management and control of the Anita Municipal Water System shall be vested in the Anita Municipal Utilities (AMU) Board of Trustees. The board and/or their designed, 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 board 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 board may make temporary rules for the protection of the system until due consideration by the board may be had. Any circumstances or conditions not covered by this ordinance will be determined by the AMU Board of Trustees.

(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 by the AMU approved specification manual, which is hereby adopted. An AMU approved specifications manual will be available at the AMU office during regular working hours.

**6-3-3 LICENSE REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this city. The Superintendent shall have the power to suspend the license 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 board. 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 board meeting at which the plumber will be granted a hearing. At this board meeting, the Superintendent shall make a written report to the board stating the Superintendent's reasons for the suspension. The board, after a fair hearing, shall revoke the suspension or take 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.

When a person, firm, or corporation has more than one water meter on a premise, each meter shall be read and billed separately. In cases where multiple businesses and/or residences are served by one meter, AMU may estimate a separate billing for each occupant. Two or more such services may be combined as one if the use by each entity is one of the following:

- a. short term (less than 30 days), or
- b. the units are occupied by the same person, firm, or corporation, and
- c. the occupancy and use of each unit being combined is similar in nature.

**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 Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. 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 Superintendent. The Superintendent shall issue the permit, bearing the Superintendent'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 issuance of the permit. The Superintendent 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 FEE FOR PERMIT.** Before any permit is issued, the person making the application shall pay a fee to the Superintendent to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee shall be established by Resolution.

**6-3-7 WATER SUPPLY CONTROL.** The plumber making 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.

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.

**6-3-8 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. A connection fee of twenty dollars (\$20.00) for a residential or commercial water tap shall be paid to AMU at the time the application is filed.

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

**6-3-9 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 (3) months after refilling. All water service pipes must be laid so as to prevent rupture by settlement of 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.

**6-3-10 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. 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))

**6-3-11 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 board 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 the plumber's bond required by the Plumbing 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))

**6-3-12 METER ACCURACY AND TEST.** All water shall be supplied through meters that accurately measure the amount of water supplied to any building. An unmetered water service may be allowed at AMU's discretion where such metering is not economically feasible, or when such water usage may be readily calculated. 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 \_\_\_\_\_ percent or more, the cost of the tests shall be paid by the board and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than \_\_\_\_\_ months. If the meter is found to be accurate or slow, less than \_\_\_\_\_ percent fast, the patron shall pay the reasonable costs of the tests.

1. Compulsory Check. Every meter shall be removed from service at least once each \_\_\_\_\_ years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of \_\_\_\_\_ percent shall not be returned to service until properly adjusted.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 4 UTILITIES – WATER RATES**

<b>6-4-1 Utility Defined</b>	<b>6-4-5 Discontinuing Services, Fees</b>
<b>6-4-2 Districts</b>	<b>6-4-6 Residential Rental Property</b>
<b>6-4-3 Disposition of Fees and Charges</b>	<b>6-4-7 Customer Guarantee Deposits</b>
<b>6-4-4 Billing, Penalty</b>	<b>6-4-8 Water Rates</b>

**6-4-1 UTILITY DEFINED.** For use in this chapter, utility is the water system operated by the Anita Municipal Utilities (AMU) Board of Trustees.

**6-4-2 DISTRICTS.** There shall be one water district which encompasses all of the City of Anita, Iowa.

**6-4-3 DISPOSITION OF FEES AND CHARGES.** All money received under this chapter shall be deposited by the board, or its authorized representative within three (3) regular business days of when it was received and a written report of the amount and source of the fees and charges shall be on file with the utilities clerk.

**6-4-4 BILLING, PENALTY.** Utility bills shall due when rendered and shall become delinquent after the tenth (10<sup>th</sup>) of each month following the period for which service was provided and billed. Bills shall have a penalty of 1½ percent per month of the principal sum added after the twentieth (20<sup>th</sup>) of each month. Payment shall be made to the utilities clerk of the Anita Municipal Utilities.

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

**6-4-5 DISCONTINUING SERVICE, FEES.**

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued following the rules of the Iowa Utilities Board or other appropriate agency.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any ordinance, a fee set by the board of trustees shall be paid to the utilities 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))

**6-4-6 RESIDENTIAL RENTAL PROPERTY.** For residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the city that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the utility. Upon receipt, the city shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for

charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city shall return the deposit within ten (10) days if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

A lien shall not be certified to the county treasurer for collection unless 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 owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

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

**6-4-7 CUSTOMER GUARANTEE DEPOSITS.** Customer deposits as set forth by the board of trustees shall be required of all customers of the municipal water system.

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

**6-4-8 WATER RATES.** Water shall be furnished at the appropriate rate schedule as set by the board of trustees.

All water passing through the water meter shall be charged for at the standard rate. If a meter fails to register, or to register correctly, AMU may order the meter repaired or replaced and AMU shall determine the approximate amount of water consumed and to be paid for by the customer.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 UTILITIES - REFUSE COLLECTION

<b>6-6-1</b>	<b>Definitions</b>	<b>6-6-6</b>	<b>Necessity of Permits</b>
<b>6-6-2</b>	<b>Duty to Provide Cans</b>	<b>6-6-7</b>	<b>Burning of Refuse</b>
<b>6-6-3</b>	<b>Administration</b>	<b>6-6-8</b>	<b>Refuse Other Than Garbage</b>
<b>6-6-4</b>	<b>Storage</b>	<b>6-6-9</b>	<b>Separation of Yard Waste</b>
<b>6-6-5</b>	<b>Collections</b>		<b>Required</b>

**6-6-1 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. "Can". Shall mean a container for the storage of garbage or rubbish, which is:

- a. Provided with a handle and tight fitting cover;
- b. Made of non-corrosive material;
- c. Water-tight; and
- d. With a capacity of no more than thirty-five (35) gallons.

5. "Yard Waste". Includes any debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, garden waste, shrubs, etc.) which is produced as part of yard and garden development and maintenance.

**6-6-2 DUTY TO PROVIDE CANS.** Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be readily accessible to the collector.

It shall be the duty of the owner of each household residing in a building arranged for more than one family unit to provide proper cans for garbage and rubbish.

**6-6-3 ADMINISTRATION.** Administration of this Chapter shall be by the mayor, or such employee designated by the mayor. (Code of Iowa, Sec. 372.13(4))

**6-6-4 STORAGE.** All garbage must be drained and that garbage accumulated from dwellings must be wrapped in paper and placed in a can. All rubbish shall be placed in a can except as otherwise provided.

**6-6-5 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.

**6-6-6 NECESSITY OF PERMIT.** No person shall collect garbage or rubbish unless by contract or permit approved by the city council and issued by the city 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 has been issued by the city clerk.

**6-6-7 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.

**6-6-8 REFUSE OTHER THAN GARBAGE.** Each person shall dispose of all refuse, other than garbage and rubbish, accumulation on any 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.

**6-6-9 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on premises or placed in degradable bags, containers, or packages and sent out for collection.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 7 STREET CUTS AND EXCAVATIONS**

**6-7-1 Excavation Permit Required**

**6-7-2 Application for Permit**

**6-7-3 Permit Fees**

**6-7-4 Safety Measures**

**6-7-5 Backfilling and Restoration**

**6-7-6 Rules and Regulations**

**6-7-1 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))

**6-7-2 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 (6) hours after receipt unless the city 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 city clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this ordinance.

**6-7-3 PERMIT FEES.** The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding one hundred (100) feet in length. An additional fee of \$15.00 shall be required for every additional one hundred (100) feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained.

**6-7-4 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.

**6-7-5 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 (48) 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 City of Anita is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

**6-7-6 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 8 SIDEWALK REGULATIONS

<b>6-8-1</b>	<b>Purpose</b>	<b>6-8-10</b>	<b>Permits for Construction or Removal</b>
<b>6-8-2</b>	<b>Definitions</b>	<b>6-8-11</b>	<b>Failure to Obtain Permit; Remedies</b>
<b>6-8-3</b>	<b>Cleaning Snow, Ice, and Accumulations</b>	<b>6-8-12</b>	<b>Inspection and Approval</b>
<b>6-8-4</b>	<b>Maintenance Responsibility</b>	<b>6-8-13</b>	<b>Barricades and Warning Lights</b>
<b>6-8-5</b>	<b>Liability of Abutting Owner</b>	<b>6-8-14</b>	<b>Interference with Sidewalk Improvements</b>
<b>6-8-6</b>	<b>Ordering Sidewalk Improvements</b>	<b>6-8-15</b>	<b>Special Assessments for Construction and Repair</b>
<b>6-8-7</b>	<b>Repairing Defective Sidewalks</b>	<b>6-8-16</b>	<b>Notice of Assessment for Repair or Cleaning Costs</b>
<b>6-8-8</b>	<b>Notice of Inability to Repair or Barricade</b>	<b>6-8-17</b>	<b>Hearing and Assessment</b>
<b>6-8-9</b>	<b>Standard Sidewalk Specifications</b>	<b>6-8-18</b>	<b>Billing and Certifying to County</b>

**6-8-1 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.

**6-8-2 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 shall be considered defective:

- 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; or

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.

**6-8-3 CLEANING SNOW AND ICE 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 Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Secs. 364.12(2)(b) & (e))

**6-8-4 MAINTENANCE RESPONSIBILITY.** 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.

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

**6-8-5 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, the city may notify in writing the abutting property owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. 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)

**6-8-6 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 state that the property owner may request a hearing by the city council within fifteen (15) days or receipt of the notice.

**6-8-7 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 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))

The property owner may apply to the city through the City of Anita Sidewalk Improvement Program for replacing and/or installing new sidewalk. The property owner authorizes the city to remove the old sidewalk and to install a new concrete sidewalk. The property owner would also agree to pay the city for the new concrete within thirty (30) days after receiving the statement from the City Clerk, or the costs can be assessed to the property as taxes.

**6-8-8 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 immediately notify the city 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.

**6-8-9 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 Street Superintendent;
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 city council shall establish a different distance due to the circumstances;

7. All elevations of sidewalks are to be established by the city council 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; and

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 Street Superintendent, and in accordance with the standard sidewalk specifications set forth in this chapter.

**6-8-10 PERMITS FOR CONSTRUCTION OR REMOVAL.** No person shall make any sidewalk improvements without first obtaining 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. 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.

**6-8-11 FAILURE TO OBTAIN PERMIT; REMEDIES.** Whenever any sidewalk improvements are made that do not conform to the provisions and specifications of this Chapter, 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.

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

**6-8-12 INSPECTION AND APPROVAL.** Upon final completion, the Street Superintendent shall inspect the work and may order corrections if the work does not meet specifications. When the work meets all requirements of this Chapter, including specifications and obtaining a permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

**6-8-13 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.

**6-8-14 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.

**6-8-15 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 under Chapter 384, Code of Iowa.

(Code of Iowa, Sec. 384.38)

**6-8-16 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 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 property 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 that the property owner may pay the amount assessed within thirty (30) days without interest or penalty. The notice shall also indicate that the property owner may object to such assessment and be given the date, time and place for which the property owner may come before the City Council to voice any 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)

**6-8-17 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)

**6-8-18 BILLING AND CERTIFYING TO COUNTY.** Thirty (30) days after the City 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 the City Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments pursuant to Chapter 384, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the City Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 9 FLOOD PLAIN MANAGEMENT**

<b>6-9-1 Statutory Authority, Findings of Fact and Purpose</b>	<b>6-9-4 Administration</b>
<b>6-9-2 General Provisions</b>	<b>6-9-5 Nonconforming Uses</b>
<b>6-9-3 Flood Plain Management Standards</b>	<b>6-9-6 Penalties for Violation</b>
	<b>6-9-7 Amendments</b>
	<b>6-9-8 Definitions</b>

**6-9-1 Statutory Authority, Findings of Fact and Purpose.**

1. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact

a. The flood hazard areas of the City of Anita are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

b. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

1. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Anita and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section I-B-1 of this Ordinance with provisions designed to:

a. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

b. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

c. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

d. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

## **6-9-2 General Provisions**

1. Lands to Which Ordinance Apply. The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Anita. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map, Community Number 190048, dated 6/17/86 for the City of Anita, as amended, 8/3/98, which is hereby adopted and made a part of this Ordinance.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, Mayor shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this Ordinance.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

4. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Anita or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

7. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**6-9-3 Flood Plain Management Standards.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:

- a. Be consistent with the need to minimize flood damage.
- b. Use construction methods and practices that will minimize flood damage.
- c. Use construction materials and utility equipment that are resistant to flood damage.

d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on

exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

b. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

a. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

b. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems:

a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

#### 11. Accessory Structures

a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

b. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

## 12. Recreational Vehicles

a. Recreational vehicles are exempt from the requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

## **6-9-4 Administration**

### 1. Appointment, Duties and Responsibilities of Flood Plain Administrator

a. The Mayor is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

b. Duties of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.

(2) Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

(3) Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

(4) Record and maintain a record of the elevation (in relation to National Geodetic Vertical datum) to which all new or substantially improved structures have been floodproofed.

(5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

## 2. Flood Plain Development Permit

a. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

b. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Indication of the use or occupancy for which the proposed work is intended.

(4) Elevation of the 100-year flood.

(5) Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

c. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.

d. Construction and Use to be as Provided in Application and Plans - Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

### 3. Variance

a. The City Council may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

b. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this Ordinance and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a flood plain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

(13) Such other factors which are relevant to the purpose of this Ordinance.

c. Conditions Attached to Variances - Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

(1) Modification of waste disposal and water supply facilities.

(2) Limitation of periods of use and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

(5) Floodproofing measures.

#### **6-9-5 Nonconforming Uses**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**6-9-6 Penalties for Violation.** Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days. Nothing herein contained prevent the city of City of Anita from taking such other lawful action as is necessary to prevent or remedy violation.

**6-9-7 Amendments.** The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

**6-9-8 Definitions.** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

2. BASEMENT - Any enclosed area of a building which has its floor or lowest level

below ground level (subgrade) on all sides. Also see "lowest floor."

3. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure".

5. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.

6. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. FACTORY-BUILT HOME - Any structure, designed for residential use:, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. FACTORY-BUILT HOME PARK - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. FLOOD ELEVATION - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

11. FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. FLOOD PLAIN - Any land area susceptible to being inundated by water as a result of a flood.

13. FLOOD PLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

15. FLOODWAY - The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. FLOODWAY FRINGE - Those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. HISTORIC STRUCTURE - Any structure that is:

a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

18. LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section IIID1 of this Ordinance and

b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and

d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a,b,c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of flood plain management regulations adopted by the community.

21. ONE HUNDRED (100) YEAR FLOOD - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

22. RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. SPECIAL FLOOD HAZARD AREA - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

24. START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built

home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

26. SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after May 21, 1976 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

28. VARIANCE - A grant of relief by a community from the terms of the flood plain management regulations.

29. VIOLATION - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 BUILDING CODE

**6-10-1 Short Title**

**6-10-2 Adoption**

**6-10-3 Amendments**

**6-10-4 Right of entry**

**6-10-1 SHORT TITLE.** This chapter shall be known as the City of Anita, Iowa, Building Code and may be cited as such, and will be referred to herein as “this chapter”.

**6-10-2 ADOPTION.** Pursuant to published notice and public hearing, as required by law, the building code adopted is Uniform Building Code Edition, issued by the International Conference of Building Officials”. An official copy of the Uniform Building Code 2000 Edition, issued by the International Conference of Building Officials and a copy of this chapter is on file at the city hall. This chapter may be amended by resolution duly passed and carried by the city council.

**6-10-3 AMENDMENTS.** The following amendments, modifications, additions, and deletions to the Uniform Building Code 2000 Edition, issued by the International Conference of Building Officials, are hereby made.

**6-10-4 RIGHT OF ENTRY.** The clerk and their authorized representatives may enter any premises upon presentation of proof of authority for the purpose of inspecting any building at such times as may be reasonably necessary to protect the public health, safety, and welfare.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 BUILDING NUMBERING

#### 6-11-1 Owner Requirements

#### 6-11-2 Building Numbering Map

**6-11-1 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the mayor. Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.

3. Failure to comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of ninety (90) days after being notified in writing by the city to do so, the city may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

**6-11-2 BUILDING NUMBERING MAP.** The city shall prepare and maintain a city-wide building numbering map.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 12 TREES**

<b>6-12-1 Purpose</b>	<b>6-12-8 Diseased Trees Subject to Removal</b>
<b>6-12-2 Definitions</b>	<b>6-12-9 Duty to Remove</b>
<b>6-12-3 Planting Restrictions</b>	<b>6-12-10 Inspection</b>
<b>6-12-4 Duty to Trim Trees</b>	<b>6-12-11 Removal from City Property</b>
<b>6-12-5 Assessment</b>	<b>6-12-12 Removal from Private Property</b>
<b>6-12-6 Trimming Trees to be Supervised</b>	<b>6-12-13 Commercial Tree Services</b>
<b>6-12-7 Removal of Trees</b>	

**6-12-1 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.

**6-12-2 DEFINITIONS.** For use in this chapter, the following terms are defined:

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

2. "Superintendent" shall mean the Superintendent of Public Works or such other person as may be designated by the city council.

3. "Street" as used herein shall refer to that portion of a platted street which is not covered by concrete, asphalt, gravel, or otherwise used for vehicular travel.

**6-12-3 PLANTING RESTRICTIONS.** No tree shall be planted in any street or parking except in accordance with the following:

1. Permit. Before planting any tree on a street or parking, the owner shall obtain a permit from the office of the City Clerk.

2. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line or the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

3. Spacing. Trees shall not be planted on the parking if it is less than six (6) feet in width, or contains less than thirty-six (36) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.

4. Prohibited trees. No person shall hereinafter plant in any street, any fruit-bearing tree or any cotton bearing cottonwoods, poplars, boxelder, Siberian elm (Chinese elm), evergreens, silver maple, Russian Olive, mulberry trees or any thorn bearing trees.

**6-12-4 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 fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.

**6-12-5 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.

**6-12-6 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.

**6-12-7 REMOVAL OF TREES.** The superintendent shall remove, on the order of the City 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 property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

**6-12-8 DISEASED TREES SUBJECT TO REMOVAL.** Diseased, dead, dying or injured trees within the city shall be removed as follows:

1. Living or Standing Trees. Any living or standing elm tree or part thereof infected with Dutch Elm Disease fungus or which harbors any of the elm bark beetles, which is scolytus multistriatus (eichb.) or hylurgopinus rufipes (marsh.).

2. Dead Trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

3. Injured or Dying Trees. Any tree which has been injured whether by disease or physical damage to the point that the tree will die, or its limbs might fall, shall be removed.

**6-12-9 DUTY TO REMOVE.** No person, firm or corporation shall permit any tree or material as defined in 6-12-8 to remain on the premises owned, controlled or occupied by such person, firm or corporation.

**6-12-10 INSPECTION.** The superintendent shall inspect or cause to be inspected all premises and places within the city to determine whether any condition as defined in Section 6-12-8 exists thereon, and shall also inspect or cause to be inspected any elm trees reported or suspected to be

infected with the Dutch Elm Disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.

**6-12-11 REMOVAL FROM CITY PROPERTY.** If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property, within the city and that the danger of other elm trees within the city is imminent, he shall immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the insect pests or vectors known to carry such disease fungus.

**6-12-12 REMOVAL FROM PRIVATE PROPERTY.** If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises and that the danger to other elm trees within the city is imminent, he shall immediately notify by certified mail the owner, occupant or person in charge of such property, to correct such condition within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt thereof, the city council may cause the nuisance to be removed and the cost assessed against the property as provided in 3-2-10 of this code.

If the superintendent is unable to determine within reasonable certainty whether or not a tree on private premises is infected with Dutch Elm Disease, he is authorized to remove or cut specimens from said tree, and obtain a diagnosis thereof.

**6-12-13 COMMERCIAL TREE SERVICES.** Any person performing tree service, or any commercial tree service company working within the City of Wiotia must obtain a permit from the office of the City Clerk. To obtain a permit, the applicant must show proof of insurance and workman's compensation adequate for the protection of the citizens of the city and the city itself. Liability insurance shall be a minimum of \$300,000 for bodily injury and \$100,000 for property damage.

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 1 LOCAL OPTION SALES AND SERVICE TAX**

**7-1-1 Tax Rate**

**7-1-2 Revenue Allocation**

7-1-1 TAX RATE. A tax rate of one percent (1%) shall be imposed in conformance with Chapter 422B of the Code of Iowa upon local sales and services of the City of Anita, Iowa.

7-1-2 REVENUE ALLOCATION. The revenues from the local sales and service tax are to be allocated in the City of Anita, Iowa, as follows:

- 50% Community Development
- 50% Infrastructure