

## **TITLE VI**

### **PUBLIC HEALTH AND SAFETY**

#### **ARTICLE 0**

##### **POLICE DEPARTMENT**

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

60.2 ORGANIZATION. The department shall consist of the police chief and such other law enforcement officers and personnel, whether full or part-time, as may be authorized by the council by resolution.

60.3 PEACE OFFICER QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a police officer unless such person: [IAC, 1999, 501 2.1]

1. Resident Citizen. Is a citizen of the United States and a resident of Iowa or intends to become a resident upon being employed.
2. Age. Is at least eighteen (18) years of age, but not more than fifty-nine (59) years of age at the time of appointment.
3. Driver's License. Has a current valid Iowa driver license.
4. Language. Is able to read and write the English language.
5. Alcohol and Drugs. Is not addicted to drugs or habitually intoxicated.
6. Character. Is of good moral character as determined by a thorough investigation including a fingerprint search conducted of local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude.
7. Conscientious Objector. Is not by reason of conscience or belief opposed to the use of force, when appropriate or necessary to fulfill his duties.
8. Education. Is a high school graduate with a diploma, or possesses an equivalency certificate acceptable by the state department of public instruction.
9. Vision. Has an uncorrected vision of not less than 20/100 in either eye, correctable to 20/20 and normal color vision.
10. Hearing. Has normal hearing in each ear as determined by an examining physician.

11. Oral Interview. Has participated in an oral interview held by the city, or its representative, to determine such things as appearance, background, and ability to communicate all as they may relate to ability to perform the work required.

12. Health. Has been examined by a physician to determine if free from physical, emotional or mental condition with might adversely affect the performance of duties.

60.4 REQUIRED TRAINING. All police officers who have not already done so shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. [Code of Iowa, 1999, §80B.11 (2), IAC, 1999, 501-3.1]

60.5 OATH. Every police officer, before entering upon the duties of his office, shall qualify for office by taking the oath prescribed by Section 12.1 of the city code.

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

60.7 PEACE OFFICERS APPOINTED. The police chief shall be appointed and serve at the pleasure of the mayor. (Code of Iowa, 1999, §372.4)

60.8 POLICE CHIEF: DUTIES. The police chief shall have the following powers and duties subject to the approval of the council. [Code of Iowa, 1999, §372.13 (4)]

1. General. Perform all duties required of the police chief or marshal by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to him.

4. Accident Reports. Report all motor vehicle accidents investigated to the state department of public safety. (Code of Iowa, 1999, §321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other city officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as maybe necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the city by showing whether said arrests were made under provisions of state law or city ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the mayor and council an annual report as well as such other reports as maybe requested by the mayor or council.

10. Command. Be in command of all officers appointed for police work, schedule all hours of work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

60.9 DEPARTMENTAL RULES. The police chief shall establish such rules, not in conflict with the city code, and subject to the approval of the council, as may be necessary for the operation of the department including rules governing the following:

1. Rules of Conduct. The conduct and activity of members of the department during regular and off-duty hours.
2. Uniform. The wear and care of uniforms.
3. Weapons. The care, use and practice of side arms and other police weapons.
4. Communication. The procedures, use and care of the police radio and other communication systems.
5. Training. The nature, time and attendance requirements for in service training of members of the department.
6. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the council.
7. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.
8. Penalties. The penalties which may be imposed for violation of established departmental rules by members.
9. Notice. The police chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation and the penalty to be imposed.
10. Appeal. A member of the department charged with a violation of rules may request a hearing before the council by filing notice of appeal with the clerk within ten (10) days of receipt of notice of violation. The council, at its next meeting, shall review the facts and may modify or revoke the action of the police chief. Nothing provided for herein is intended to eliminate any alternative procedures provided for in a collective bargaining agreement.

60.10 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid him or her in making the arrest. (Code of Iowa. 1999. 6804.171

60.11 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 his or her control to be disposed of according to law. (Code of Iowa, 1999, §804.18)

60.12 UNIFORM ALLOWANCE. All police officers shall be provided a uniform allowance as determined by resolution of the council which shall be granted in the form of the purchase of clothing meeting the standard of color, style and quality specified by the city. Any officer who leaves the department's service shall pay all indebtedness to the city and turn over all items identifiable as official uniforms, including insignia, before receiving final compensation.

## **ARTICLE 1 FIRE DEPARTMENT**

61.1 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.

61.2 ORGANIZATION. The department shall consist of the fire chief and such other officers and personnel as may be authorized by the council.

61.3 MEMBERSHIP QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:

1. Resident of the New Hampton Fire District. Is a citizen of the United States and a resident of the New Hampton Fire District or intends to become a resident upon acceptance as a member of the department.
2. Age. Is at least eighteen (18) years of age.
3. Driver's License. Has a current valid Iowa driver's license.
4. Alcohol and Drugs. Is not addicted to drugs or habitually intoxicated.
5. Character. Is of good moral character as determined by a thorough investigation.
6. Board of Officers. Is approved by a majority of the Board of Officers.

61.4 TRAINING. All members of the department shall attend and actively participate in

regular or special training drills or programs as directed by the chief.

61.5 COMPENSATION. Members of the department may be designated by rank and receive such compensation as may be determined by resolution of the council. [Code of Iowa, 1999, §372.13 (4)]

61.6 ELECTION OF OFFICERS. The department shall elect a chief and such other officers as authorized. In case of absence of the chief the officer next in rank shall be in charge and have and exercise all the powers of chief.

61.7 OATH. The fire chief, before entering upon the duties of his office, shall qualify for office by taking the oath prescribed by §12.1 of the city code.

61.8 FIRE CHIEF: DUTIES. The fire chief shall have the following powers and duties: the code of Iowa, 1999, §372.14 (4)]

1. General. Perform all duties required of the fire chief by law or ordinance.
2. Enforce Laws. 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 exit 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.
  - E. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
3. Command. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the fire chief.
4. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
5. Investigations. Investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. Whenever he finds that bodily injury or property damage of fifty (50) dollars or more was caused by such fire, or if he suspects arson, he shall report his findings to the state fire marshal in writing within one week after the fire. If he believes that a fire was started by design or if a death occurs as the result of a fire, he shall notify the state fire marshal immediately. (Code of Iowa, 1999, §100.2 & 100.3)
6. Right of Entry. Have the right, during reasonable hours and upon consent of the

occupant, to enter any building or premises within his jurisdiction for the purpose of making such investigation or inspection which under law or ordinance he may consider necessary to be made and is reasonably necessary to protect the public health, safety and welfare. (Code of Iowa, 1999, §100.12)

7. Recommendation. Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards. (Code of Iowa, 1999, §100.13)

8. Assist State Fire Marshal. At the request of the state fire marshal, and as provided by law, aid said marshal in the performance of his duties by investigating, preventing and reporting data pertaining to fires. (Code of Iowa, 1999, §100.2)

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

10. Reports. Compile and submit to the mayor and council such reports as may be requested by the mayor or council, in addition to the annual report which shall be submitted on or before the first day of August of each year.

61.9 DEPARTMENTAL RULES. The fire chief shall establish such rules, not in conflict with the city code and subject to the approval of the council, as may be necessary for the operation of the department including rules governing the following:

1. Rules of Conduct. The conduct and activity of members of the department during regular and off-duty hours.

2. Communication. The procedures, use and care of the radio and other communication systems.

3. Training. The nature, time and attendance requirements for in service training of members of the department.

4. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the council.

5. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.

6. Penalties. The penalties which may be imposed for violation of established departmental rules by members.

7. Notice. The fire chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation and the penalty to be imposed.

8. Appeal. A member of the department charged with a violation of rules may request a hearing before the council by filing notice of appeal with the clerk within ten (10) days of receipt of notice of violation. The council, at its next meeting shall review the facts and may modify or revoke the action of the fire chief.

61.10 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract. (Code of Iowa, 1999, §85.2, 85.61 and Sec. 410.18)

61.11 LIABILITY INSURANCE. The council shall contract to insure against liability of the city or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the city. (Code of Iowa, 1999, §613A.2 & 517A.1)

61.12 CALLS OUTSIDE THE CITY. The department shall answer calls to fires and other emergencies outside the city limits if the fire chief determines that such emergency exists and that such action will not endanger persons and property within the city limits. [Code of Iowa, 1999, §364.4 (2 & 3)]

61.13 FIRE LIMITS ESTABLISHED. The fire limits are established to include all territory within the following boundaries:

All of Blocks 38, 33, 24, 19, 30, 32, 25, 18 and 11 of the Original Plat of the City of New Hampton, Iowa and all of Block 10, and Block 5, Bigelow's Addition to the City of New Hampton, Iowa, and all property included in any of the above blocks shall be within the fire limits of the City of New Hampton, Iowa.

61.14 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the Fire Limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the zoning administrator, who shall, if in accordance with the provisions of this chapter and zoning regulations, issue a permit for the proposed work.

61.15 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Limits, unless constructed in strict compliance with the provisions of this chapter.

61.16 WALLS AND ROOF. The building or structure shall be closed on all sides with walls constructed wholly of stone, brick, terra-cotta, hollow building tile, concrete or other fireproof material and the roof, top and sides of all roof structures, including dormer windows and cornices, shall be covered with incombustible material, such as metal, slate,

tile, composition shingles or roofing approved by the National Board of Fire Underwriters as Fire Resistive. Should the wall of any building be constructed of steel, the same shall contain a minimum of three (3) inches of fiberglass insulation which shall be covered on the interior with fire-resistive materials approved by the zoning administrator.

61.17 EXTERIOR AND DIVISION WALLS. All exterior or division walls of buildings hereafter erected shall be of sufficient thickness to support the load to be carried. All solid brick or reinforced concrete, exterior or division walls, shall be not less than eight (8) inches thick in the upper two (2) stories or upper thirty (30) feet, increasing four (4) inches in thickness for each two (2) stories or fraction thereof below. Such exterior or division walls, when constructed of other permissible material, such as concrete tile or hollow tile, shall be at least four (4) inches thicker than solid brick or reinforced concrete walls. All exterior or division walls shall extend at least eighteen (18) inches above the roof.

61.18 BEAMS IN WALLS. The ends of all floor, ceiling, or roof beams, entering a party or fire wall from opposite sides, shall be separated by at least four (4) inches of solid masonry.

61.19 ACCESSORY BUILDINGS. The mayor, upon vote of a majority of the council in favor thereof, may issue a permit to build an out building of other materials than those specified in this chapter, not exceeding twelve (12) feet in height and one hundred fifty (150) square feet in area, to be placed not less than twenty (20) feet from any other building or erection within the fire limits, and with the use of which no fire is anticipated. To obtain such permit, written application shall be made to the mayor and the council before any work is done, specifying the location, size and contemplated use of the proposed erection, and if a majority of the council vote in favor of granting such permit and the mayor approves of the same, the mayor shall issue a permit in writing.

61.20 SPECIAL PERMIT. The council may, by two-thirds vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter.

61.21 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.

61.22 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, to the extent of fifty (50) percent of its value, shall not be repaired or re-built but shall be torn down or removed. When the damages are less than fifty (50) percent of its value the building shall not be repaired, so as to be higher in value than it was before the damages were sustained, except upon approval, by four fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.

61.23 BOARD OF APPRAISEMENT. In case of a question as to the amount of extent of damage, by fire or otherwise, to any building, the damage shall be determined by a board of appraisal of three (3) disinterested parties, all to be owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor, and the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member, within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decision shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the fire limits about which there is a question shall be repaired or re-built until such finding has been filed with the clerk.

61.24 REMOVAL OF BUILDINGS. Any person, firm or corporation who shall erect or move any building in the Fire Limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the time of the service of such notice, the council shall cause the same to be removed or taken down. The mayor shall report an itemized bill of the expense to the clerk, and the same shall be charged to the person, firm or corporation owning such building. The clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the clerk, to the county auditor, as a special tax against the property and collected the same as other taxes.

61.25 UNRESTRICTED FIRE. No person shall build or maintain a bonfire, fire for the burning of rubbish or any other fire except that which shall be in a stove, furnace of heating plant and which is confined within a building, in any alley or street, or upon private property within the fire limits as established in §61.13.

## **ARTICLE 2 BEER, LIQUOR AND CIGARETTE CONTROL**

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

1. "Person of Good Moral Character": shall mean any person who meets all of the following requirements: [Code of Iowa, 1999, §123.3 (12)]

A. Has such financial standing and good reputation as will satisfy the council and the administrator that the person will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his operations understate law.

B. Does not possess a federal gambling stamp.

C. Is not prohibited by the provisions of Section 62.31 from obtaining a liquor license or beer permit.

D. Is a citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.

E. Has not been convicted of a felony. However, if his conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his rights of citizenship have been restored by the Governor, the director may determine that he is a person of good moral character notwithstanding such conviction.

F. If such person is a corporation, partnership, association, club, or hotel or motel the requirements of this subsection shall apply to each of the officers, directors and partners of such person, and to any person who directly or indirectly owns or controls (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this provision, an individual and his spouse shall be regarded as one person.

2. "Club": shall mean any non-profit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership. [Code of Iowa, 1999, §123.3 (29)]

3. "Commercial establishment": shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licenses premises of which conform to the ordinances of the city. [Code of Iowa, 1999, §123.3 (30)]

4. "Grocery store": shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises. (Code of Iowa, 1999, §123.129)

5. "Pharmacy": shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist. (Code of Iowa, 1999, §123.129)

6. "Hotel or Motel": shall mean a premise licensed by the State Department of Agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms. [Code of Iowa, 1999, §123.3 (32)]

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

8. "Administrator": shall mean the administrator of the Alcoholic Beverages Division of the Iowa Department of Commerce, or his designee. [Code of Iowa, 1999, §123.3(3)]

9. "Division": shall mean the Alcoholic Beverages Division of the Department of Commerce. [Code of Iowa, 1999, §123.3 (2)]

62.2 ILLEGAL KEEPING OF INTOXICANTS. It shall be unlawful for a person to operate or conduct or allow to be operated, a place where intoxicating liquor is illegally kept, sold or given away. (Code of Iowa, 1999, §123.2)

62.3 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe him to be under legal age, and no person or persons under legal age shall individually or jointly have alcoholic liquor or beer in his or their possession or control, except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages and beer during the regular course of his or her employment by a liquor control licensee or beer permittee under state laws. (Code of Iowa, 1999, §123.47)

62.4 PERSONS AGE 19 AND 20. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age 19 or 20. A person age 19 or 20 shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age 19 or 20 may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge and consent of the person's within a private home with the knowledge and consent of the person's parent or guardian, and a person age 19 or 20 may handle alcoholic liquor, wine, or beer during the course of the person's employment by a liquor control licensee, or wine or beer permitted. A person, other than a licensee or permittee, who violates this section, shall be fined the sum of \$15.00. A licensee or permittee who violates this section may be punished by a fine of not more than \$50.00. The penalty provided under this section against a licensee or permittee who violates this section is the only penalty which shall be imposed against a licensee or permittee who violates this section. (Code of Iowa, 1999, 123.47)

62.5 PUBLIC CONSUMPTION OR INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "School" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12). (Code of Iowa, 1999, §123.46)

62.6 OPEN CONTAINER IN PUBLIC PLACES. It shall be unlawful for any person to

possess an open container of alcoholic liquor or beer upon the public streets or highways of the city.

62.7 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor or beer without first securing a liquor control license or beer permit in accordance with the provisions of this chapter and state law. (Code of Iowa, 1999, §123.2)

62.8 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable or assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the director may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same. (Code of Iowa, 1999, §123.38)

62.9 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:

1. Class "B": A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises. (Code of Iowa, 1999, §123.124 & 123.131)
2. Class "C": A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy. (Code of Iowa, 1999, Sec.123, 124 & 123.129)

62.10 LIQUOR LICENSES - CLASSES. Liquor control licenses shall be classed as follows:

1. Class "A": A class "A" liquor control license issued to a club shall authorize the holder to purchase alcoholic liquors from the department only, and to sell such liquors, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only. [Code of Iowa, 1999, §123.30 (3a)]
2. Class "B": A class "B" liquor control license issued to a hotel or motel shall authorize the holder to purchase alcoholic liquors from the department only and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application. [Code of Iowa, 1999, §123.30 (3b)]
3. Class "C": A class "C" liquor control license issued to a commercial establishment must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase alcoholic liquors from the

department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. [Code of Iowa, 1999, §123.30 (3c)]

62.11 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by him. (Code of Iowa, 1999, §123.31)

62.12 BOND FILED. The application shall be accompanied by the required fee and bond and be filed with the council for approval or disapproval. The bond to be submitted shall be in a form prescribed by the administration and in the following amounts: (Code of Iowa, 1999, §123.32)

1. Liquor Control License. With any liquor control license, five thousand (5,000) dollars, and conditioned upon the payment of all taxes payable to the state under the provisions of the Iowa beer and liquor control act and compliance with all provisions of the act. [Code of Iowa, 1999, §123.30 (1)]

2. Beer Permit. With class "B" and "C" beer permits, five hundred (500) dollars, and conditioned upon the faithful observance of the Iowa beer and liquor control act. (Code of Iowa, 1999, §123.128 & 123.129)

62.13 CONDITIONS. No liquor control license or beer permit shall be approved unless:

1. Character of Applicant. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter. [Code of Iowa, 1999, §123.30 (1)]

2. Right of Entry. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter. [Code of Iowa, 1999, §123.30(1)]

3. Access to Residential or Sleeping Quarters. No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the director in the form of a living quarters permit. [Code of Iowa, 1999, §123.30 (2)]

4. Location of Premises. The premises are located within areas where such businesses are, or hereafter are, permitted by a valid zoning ordinance. [Code of Iowa, 1999, §123.128 (1b); and 123.30 (2)]

5. Seating Capacity. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty five (25) persons at one time. [Code of Iowa, 1999, 123.30(1)]

6. Conform to Applicable Laws. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations. [Code of Iowa, 1999, §123.30 (2)]

62.14 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the department. [Code of Iowa, 1999, §123.92)

62.15 SEPARATE LOCATIONS - CLASS "B" OR "C". Every person holding a class "B" or class "C" beer permit having more than one place of business where such beer is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law. (Code of Iowa, 1999, §123.140)

62.16 INVESTIGATION. Upon receipt of an original application for a liquor license or beer permit by the clerk, it shall be forwarded to the police chief who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the fire chief to inspect the premises to determine if they conform to the requirements of the city, and no license or permit shall be approved until or unless an approving report has been filed with the council by such officers. [Code of Iowa, 1999, §123.30(2)]

62.17 LICENSE AND PERMIT FEES. The following fees shall be submitted with the respective application:

1. Class "B" Beer. For a class "B" beer permit the annual fee shall be: [Code of Iowa, 1999, §123.134 (2)]

- A. Without Sunday sales privileges - \$200.00.
- B. With Sunday sale privileges - \$240.00.

2. Class "C" Beer. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows: [Code of Iowa, 1999, §123.134 (3)]

- A. Up to one thousand five hundred square feet \$75.00, with Sunday sales an additional \$15.00.
- B. Over one thousand five hundred square feet and up to two thousand square feet \$100.00, with Sunday sales an additional \$20.00.
- C. Over two thousand and up to five thousand square feet \$200.00, with Sunday sales an additional \$40.00.
- D. Over five thousand square feet \$300.00, with Sunday sales an additional

\$60.00.

3. Class "A" Liquor. For a class "A" liquor control license the annual fee shall be: [Code of Iowa, 1999, §123.36 (2)]

A. Club, without Sunday sales privileges - \$600.00. Club, with Sunday privileges \$720.00.

B. Club, less than 240 members: without Sunday sales privileges - \$400.00. with Sunday sales privileges - \$480.00.

C. Club, which is a post, branch or chapter of a veteran's organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week: without Sunday sales privileges - \$200.00. with Sunday sales privileges - \$240.00.

4. Class "B" Liquor. For a class "B" liquor control license the annual fee shall be: [Code of Iowa, 1999, §123.36 (3)]

A. Without Sunday sales privileges - \$1,050.00.

B. With Sunday sales privileges - \$1,260.00.

5. Class "C" Liquor. For a class "C" liquor control license the annual fee shall be: [Code of Iowa, 1999, §123.36 (4)]

A. Without Sunday sales privileges - \$950.00.

B. With Sunday sales privileges - \$1,140.00.

62.1S SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law. (Code of Iowa, 1999, §123.34)

62.19 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the department for such further action as is provided by law. [Code of Iowa, 1999, §123.32 (2)]

62.20 EXPIRATION OF LICENSE OR PERMIT. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance. Sixty (60) days notice of such expiration must be given in writing by the director. (Code of Iowa, 1999, §123.34)

62.21 REFUNDS. Any such licensee or permittee, or his executor, administrator, or any

person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows: If surrendered during the first three (3) months of the period for which said license or permit was issued and refund shall be three-fourths (3/4) of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half (1/2) of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance. No refund shall be made to any licensee or permittee, upon the surrendering of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him with a violation of this chapter or provisions of the Iowa beer and liquor control act. If upon hearing on such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing he shall not be eligible for the refund of any portion of his license or permit fee. No refund shall be made for seasonal licenses or permits. (Code of Iowa, 1999, §123.38)

62.22 TRANSFERS. The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of fifteen (15) dollars. (Code of Iowa, 1999, §123.38) (IAC, 1999, 150 2.14 (123))

62.23 SIMPLIFIED APPLICATION FOR RENEWAL. Upon receipt of an application for the renewal of a liquor license or beer permit, it shall be forwarded to the police chief and fire chief, who shall conduct an investigation and shall submit a written report as to the truth of the facts contained in the application and are commendation to the council as to the approval of the license or permit. (Code of Iowa, 1999, §123.35)

62.24 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer permit nor his agents or employees shall do any of the following:

1. Intoxicated Persons. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer. [Code of Iowa, 1999, §123.49(1)]

2. Hours of Operation. Sell or dispense any alcoholic liquor or beer on the premises covered by the license or permit, or permit the consumption thereon, between the hours of two (2) o'clock a.m. and six (6) o'clock a.m. on any weekday and between the hours of two (2) o'clock a.m. and ten (10) o'clock a.m. on Sunday and twelve (12) o'clock a.m. on Sunday and six (6) o'clock a.m. on the following Monday, except when that Monday is New Year's Day then such sales or consumption maybe permitted between the hours of

ten (10) o'clock p.m. on Sunday and two (2) o'clock a.m. on Monday. [Code of Iowa, 1999, §123.49 (2b)]

3. Credit Sales. Sell alcoholic liquor or beer to any person on credit, except with bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests. [Code of Iowa, 1999 §123.49(2c)]

4. Employment of Minors. Employ any person under eighteen (18) years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold. [Code of Iowa, 1999, §123.49 (2f)]

5. Selling of Alcoholic Beverage to Minors. Sell, give or otherwise supply any alcoholic beverage or beer to any person knowing or having reasonable cause to believe him to be under legal age, or permit any person knowing or having reasonable cause to believe him to be under legal age, to consume any alcoholic beverage or beer. [Code of Iowa, 1999, §123.49 (2h)]

6. Mixing of Alcoholic Beverage. In the case of a retail beer permitte, knowingly allow the mixing of adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business. [Code of Iowa, 1999, §123.49 (2i)]

7. Soliciting and Disorderly Conduct. Knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit. [Code of Iowa, 1999, §123.49 (2a)]

8. Beer Brand Signs Prohibited. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail. [Code of Iowa, 1999, §123.51 (1)]

9. Public Indecent Exposure Prohibited. Allow or permit any of the following: (Code of Iowa, 1999, §728.5)

A. The actual or simulated public performance of any sex act upon or in such licensed premises.

B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

E. The displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises. Provided that the provisions of this subsection shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

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

1. Misrepresentation. Misrepresentation of any material fact in the application for such license or permit. [Code of Iowa, 1999, §123.39(1)]
2. Violations. Violations of any of the provisions of the Iowa beer and liquor control act. [Code of Iowa, 1999, §123.39 (2)]
3. Change in Ownership. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the department. [Code of Iowa, 1999, §123.39 (3)]
4. Original Disqualifications. Any event which would have resulted in disqualification from receiving such license or permit when originally issued. [Code of Iowa, 1999, §123.39 (4)]
5. Sale or Transfer. Any sale, hypothecation or transfer of such licensee or permit. [Code of Iowa, 1999, §123.39 (5)]
6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the department under the state law. [Code of Iowa, 1999, §123.39 (6)]
7. Commission of Prohibited Sale or Act. The conviction of any liquor control licensee or beer permittee for a violation of any of the provisions of Section 62.24 shall, subject to Section 62.26, be grounds for the suspension or revocation of the license or permit by the department or the city. [Code of Iowa, 1999, §123.50 (2)]

62.26 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. Sale to Minors or "Spiking". If any license, beer permittee, or employee of such licensee or permitted shall be convicted of a violation of Section 62.24, subsection 5, or a retail beer permittee shall be convicted of a violation of subsection 6 of said section, the city shall, in addition to the other penalties fixed for such violations by this article, assess

a penalty as follows:

A. Upon a first conviction, the violator's liquor control license or beer permit shall be suspended for a period of fourteen (14) days. [Code of Iowa, 1999, §123.50 (3a)]

B. Upon a second conviction within a period of two (2) years, the violator's liquor control license or beer permit shall be suspended for a period of thirty (30) days. [Code of Iowa, 1999, §123.50(3b)]

C. Upon a third conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be suspended for a period of sixty (60) days. [Code of Iowa, 1999, §123.50(3c)]

D. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be revoked. [Code of Iowa, 1999, §123.50 (3d)]

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any liquor control licensee is convicted of any violation of Code of Iowa, 1999, §123.49 (2, a, d or e), or any beer permitted is convicted of a violation of subsection (2), paragraph "A" of said section, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the department. [Code of Iowa, 1999, §123.50 (2)]

62.27 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner: [Code of Iowa, 1999, §322.13 (5)]

1. Notice. The permit holder, and the surety on his bond, shall be served with written notice containing a copy of the complaint against him, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

2. Hearing. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.

3. Rights of Permit Holder. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross-examine adverse witnesses.

4. Evidence. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its

natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

62.28 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer permit, the Iowa beer and liquor control department shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same. (IAC, 1999, 150-2.8)

62.29 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the director or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may, provided he has exercised his right of appeal to the hearing board as provided by state law, appeal from said decision within ten (10) days to the district court of the county wherein the premises covered by the application are situated. The city may appeal a decision of the hearing board within ten (10) days to the district court of the county wherein the premises covered by the application are situated. [Code of Iowa, 1999, §123.32 (4 & 5)]

62.30 EFFECT OF REVOCATION. Any liquor control licensee or beer permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked the premises which have been covered by such license or permit shall not be relicensed for one year. (Code of Iowa, 1999, §123.40)

62.31 DEFINITIONS FOR CIGARETTE PERMITS. For use in this chapter the following terms are defined:

1. "Cigarette": shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. It also shall mean cigarette papers, wrappers and tubes. It shall further include cigarillos provided their weight does not exceed three (3) pounds per thousand. However, this definition shall not be construed to include cigars. (Code of Iowa, 1999, §98.1 (1))

2. "Retailer": shall mean every individual, firm, corporation or other association that sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales. [Code of Iowa, 1999, §98.1 (14)]

3. "Place of Business": shall mean any place where cigarettes are sold or where cigarettes are stored within the city by the holder of an Iowa permit or kept for the purpose of sale or consumption. [Code of Iowa, 1999, §98.1 (4)]

62.32 PERMIT REQUIRED. No retailer shall distribute, sell or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

62.33 APPLICATION. A completed application on forms provided by the state department of revenue and accompanied by the fee provided in Section 62.34 shall be filed with the clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and a special council meeting is called to act on the application the costs of such special meeting shall be paid by the applicant. [O.A.G., 1922, p. 460; Code of Iowa, 1999, §98.13 (5 & 9)]

62.34 FEES. The fee for issuing or renewing a cigarette permit shall be as follows: [Code of Iowa, 1999, §98.13 (3)]

FOR PERMITS ISSUED OR RENEWED DURING:	FEE:
July, August or September	\$75.00.
October, November or December	\$56.25.
January, February or March	\$37.50.
April, May or June	\$18.75.

62.35 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the state department of revenue.

62.36 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his place of business, the council, if it decides to issue a new permit to him, shall not charge

any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

62.37 EXPIRATION. Permits expire on June 30 of each year.

62.38 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city, except during April, May or June, as follows: [Code of Iowa, 1999, §98.13 (4)]

PERMITS SURRENDERED DURING:	AMOUNT OF REFUND:
July, August or September	\$56.25.
October, November or December	\$37.50.
January, February or March	\$18.75.

62.39 REVOCATION. The council, after notice and hearing, shall revoke a permit if it finds the retailer has substantially violated the provisions of this chapter or Chapter 98, Code of Iowa, 1999, or if grounds exist that would be sufficient for refusal to issue such a permit. The clerk shall give five (5) days written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his application for a permit. The notice shall state the reason for the contemplated revocation and the time and place at which he may appear and be heard. The hearing shall be held at the regular meeting place of the council. (Code of Iowa, 1999, §98.22; O.A.G., 1932, p. 164)

62.40 RENEWAL AFTER REVOCATION. Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

62.41 PERSONS UNDER LEGAL AGE.

1. A person under 18 years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco products, or cigarettes. (Code of Iowa, 1999, §453A.2 (2))
2. Civil Penalty. A person who violates Section 1 shall pay a civil penalty equal to that provided for by Section 805.8(11) of the Iowa Code. Failure to timely pay the civil penalty imposed for a violation of Section 1 is a simple misdemeanor punishable in the same manner as a scheduled violation under Section 805.8 (11) of the Iowa Code. (Code of Iowa, 1999, §453A.3)
3. Supplying to persons under legal age. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to a person under 18 years of age. (Code of Iowa, 1999, §453A.2 (1))

**ARTICLE 3**  
**BICYCLE AND SNOWMOBILE REGULATIONS**

63.1 SCOPE OF REGULATIONS BICYCLES. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein. [Code of Iowa, 1999, §321.236(10)]

63.2 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle he shall be subject to all regulations applicable to pedestrians. (Code of Iowa, 1999, §321.234)

63.3 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (Code of Iowa, 1999, §321.236 (10))

63.4 SINGLE FILE REQUIRED. Persons riding bicycles upon a roadway shall ride single file in business districts and upon sidewalks within residential districts and not more than two (2) abreast elsewhere except on paths or parts of roadways set aside for the exclusive use of bicycles. (Code of Iowa, 1999, §321.236(10))

63.5 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. [Code of Iowa, 1999, §321.236 (10)]

63.6 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk except in accordance herewith:

1. Business District. No person shall ride a bicycle upon a sidewalk within a business district. [Code of Iowa, 1999, §321.236 (10)]
2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs. [Code of Iowa, 1999, §321.236 (10)]
3. Yield Right-of-Way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing. [Code of Iowa, 1999, §321.236 (10)]

63.7 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operation of others.

63.8 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Night-time Use. Every bicycle when in use at night-time shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front or a large white reflection visible from the same distance and a red reflector on the rear of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector. [Code of Iowa, 1999, §321.236 (10)]

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. [Code of Iowa, 1999, §321.236 (10)]

63.9 SPECIAL PENALTY. Any person violating the provisions of this article shall have his bicycle impounded by the city for not less than three (3) days for the first offense and pay a fine of three (3) dollars, five (5) days and five (5) dollars for a second offense and ten (10) days and ten (10) dollars for a third offense. Such fines shall be payable at the city clerk's office. Following the third offense, all violations shall be treated as a simple misdemeanor.

63.10 BICYCLE DEFINED. For purposes of this chapter the term "bicycle" shall include any vehicle consisting of an arrangement or combination of two (2) or three (3) wheels, sixteen (16) inches or more in diameter, supported by a frame propelled wholly or in part by the feet acting upon pedals.

63.11 LICENSE REQUIRED. No person who resides within this city shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate is attached thereto as provided herein. [Code of Iowa, 1999, §321.236 (10)]

1. License Application. Application for a bicycle license and license plate shall be made upon a form provided by the city and shall be made to the chief of police. A license fee of fifty (50) cents shall be paid to the city before each license is granted. [Code of Iowa, 1999, §321.236 (10)]

2. Issuance of License. The chief of police upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective immediately. [Code of Iowa, 1999, §372.13 (4)]

3. License Valid. Any license hereunder shall be valid until the ownership of the bicycle is transferred. The new owner shall then make application to the Chief of Police for a new license.

63.12 LICENSE PLATES OR DECALS. License plates or decals are required as follows:

1. Issued. The chief of police upon issuing a bicycle license shall also issue a license plate

or decal bearing the license number assigned to the bicycle and the name of the city. [Code of Iowa, 1999, §372.13(4)]

2. Attached to Bicycle. The chief of police shall cause such license plate or decal to be firmly attached to the bicycle for which issued in such position as to be plainly visible from the rear. [Code of Iowa, 1999, §321.236 (10)]

3. Removal. No person shall remove a license plate or decal from a bicycle during the period for which issued except in the event the bicycle is dismantled and no longer operated upon any street in this city. [Code of Iowa, 1999, §321.236 (10)]

4. Lost License. In the event a licensee plate or decal shall be lost, destroyed or stolen, the owner shall report such to the police department immediately. A new license shall be issued upon payment of a fee of fifty (50) cents.

63.13 MAINTENANCE OF LICENSE RECORDS. The Chief of Police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected by him. [Code of Iowa, 1999, §372.13 (4)]

63.14 SCOOTERS AND SKATEBOARDS. No one shall ride a scooter, skateboard, or other similar self-propelled device on the streets or sidewalks in the business district from the north side of Spring Street to the south side of Prospect from Water Avenue to Linn Avenue, and no one shall ride them on any city street after sunset and before sunrise. No one shall ride a scooter, skateboard, or other similar self-propelled device in the manner described in §63.7 of the City Code.

63.15 SNOWMOBILES. The purpose of this chapter is to provide reasonable rules and regulations for the maintenance and operation of snowmobiles in the city and to establish areas wherein snowmobiles may be used for the safety and general welfare of the public in the city.

63.16 SNOWMOBILE DEFINED. For use in this chapter the term "snowmobile" shall mean any self-propelled vehicle weighing less than one thousand (1,000) pounds which utilizes wheels with low pressure tires and is designed to operate on land or ice or is equipped with sled type runners or skis, endless belt type tread, or any combination thereof, and is designed for travel upon snow, land or ice, except any vehicle registered as a motor vehicle under state law. {Code of Iowa, 1999, §321.G.1 (2)}

63.17 PLACE OF OPERATION. The operators of snowmobiles shall observe the following limitations as to where snowmobiles may be operated:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season. [Code of Iowa, 1999, §321.G.9 (4a)]

2. Other Streets. Snowmobiles may be operated on any streets within the city for the sole

and exclusive purpose of using the most direct roadway for the ingress to and egress from the city with the exception of Main Street in its entirety, Linn Avenue in its entirety, Milwaukee Street from Linn Avenue to the west corporate limits, and all streets and alleys within the area defined as the "Business District" by the City Code. No snowmobile shall be driven on any roadway solely for entertainment or pleasure. [Code of Iowa, 1999, §321.G.9 (4a)]

3. Parks and Other Public Land. Snowmobiles shall not be operated in any city park, playground or upon any other publicly owned property except with the express permission of the governing body thereof.

4. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof. (Code of Iowa, 1999, Ch. 729)

5. Sidewalk or Parking. No snowmobiles shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

63.18 MANNER OF OPERATION. No person shall operate a snowmobile in the city except as hereafter provided:

1. Registration. No snowmobile shall be operated in the city unless registered pursuant to state law and unless the identifying number set forth in the registration is displayed on each side of the snowmobile. (Code of Iowa, 1999, §321.G.3 & 321G.5)

2. Equipment. All snowmobiles shall be equipped with muffling devices, lights and other equipment required by state law or regulation. (Code of Iowa, 1999, §321.G.2, 321.G.11 & 321G.12)

3. Traffic Code. Snowmobile operators shall observe all state and local traffic control regulations and devices. (Code of Iowa, 1999, §321.256)

4. Speed. Snowmobiles shall not be operated on streets at a speed in excess of fifteen (15) miles per hour. [Code of Iowa, 1999, §321.G.13 (1)]

5. Careless Operation. No person shall operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto. [Code of Iowa, 1999, §321.G.13 (2)]

6. Intoxicated. No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs. [Code of Iowa, 1999, §321.G.13 (3)]

7. Lights. No person shall operate a snowmobile without a lighted headlight and tail light when required for safety. [Code of Iowa, 1999, §321.G.13 (4)]

8. Unattended. No operator or owner shall leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys in the ignition switch.

9. Flag. No snowmobile shall be operated upon a street without displaying a flag with an area of not less than six (6) by nine (9) inches of fluorescent orange color on a staff holder to put such flag at least five (5) feet above the surface of the street. [Code of Iowa, 1999, §321.G.13 (9)]

10. Minors. A snowmobile shall not be operated across a public street by a person under 16 years of age who does not have in his or her possession a safety certificate issued pursuant to Chapter 321 G of the Iowa Code. A person 12 to 15 years of age who possesses a valid safety certificate must be under the direct supervision of a parent, guardian, or another adult authorized by the parent or guardian who is experienced in snowmobile operation and who possesses a valid motor vehicle driver's license. A person under 12 years of age shall not operate a snowmobile on public streets within the City. [Code of Iowa, 1999, §321.G.9 & G.20]

11. Hours of Operation Limited. No snowmobile shall be operated within the City between the hours of 2:00 a.m. and 5:00 a.m., except for emergency situations or for loading and unloading from a transport trailer.

12. Thaw Ban. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation. (Code of Iowa, 1999, §321.G.2)

13. Single File. Snowmobiles shall be driven in single file in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.

14. Towing. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

15. Dead Man Throttle. No snowmobile shall be operated within the city unless equipped with a "dead man" throttle which when pressure is removed from the accelerator or throttle causes the engine to be disengaged from the drive mechanism.

#### **ARTICLE 4 ANIMAL PROTECTION AND CONTROL**

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

1. "Animal": shall mean all living creatures not human.
2. "At Large": shall mean any animal found off the premises of his owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a

veterinary hospital or kennel.

3. "Owner": shall mean any person owning, keeping, sheltering or harboring an animal.

4. "Licensed Dog": shall mean any dog bearing a currently valid license

64.2 CRUELTY TO ANIMALS. No person shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food and water, or shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently. (Code of Iowa, 1999, §717B.2)

64.3 EXHIBITIONS AND FIGHTS. No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators. (Code of Iowa, 1999, §717B.7)

64.4 INJURIES TO ANIMALS. No person, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal. (Code of Iowa, 1999, §717B.2)

64.5 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cats, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the City. (O.A.G. 1914, P. 126)

64.6 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city bothersome animals, including, but not limited to, bees, cattle, horses, swine, sheep and exotic animals that tend to disrupt the peace and good order of the community. (O.A.G., 1914, p. 126)

64.7 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises or another thereby causing damage to, or interference with, the premises.

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

64.9 VICIOUS DOGS. It shall be unlawful for any person to harbor or keep a vicious animal in the City. An animal is deemed to be vicious when it shall have attacked or bitten any person without provocation or when an animal has a known propensity, tendency, or disposition to attack unprovoked as evidenced by its repeated chasing,

snapping, or biting human beings or other domestic animals so as to potentially cause injury or otherwise endanger their safety.

64.10 AT LARGE ANIMALS: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or, at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

64.12 DISPOSITION OF IMPOUNDED ANIMALS. Impounded dogs or other animals may be recovered by the owner, upon proper identification, by payment of the impounding fees. If such dogs or other animals are not claimed within 21 days after impoundment, they shall be disposed of in a humane manner.

64.13 IMPOUNDING COSTS. When any animal is impounded, the owner shall pay the City \$20.00 before recovering the animal. An additional charge of \$4.00 per day shall be made to recover the costs of shelter and food.

64.14 KENNEL DOGS. Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this article.

64.15 SANITATION. No owner or custodian of any animal shall cause or allow the animal to soil, defile, or defecate on any public property or upon any street, sidewalk, public way, or common ground owned jointly by members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of the waste deposited by such animal by the following methods:

- 1) Collection of the waste by appropriate implement and placement in a paper or plastic bag or other container; and
- 2) Removal of such bag or container to the property of the animal's owner or custodian and disposition thereafter in the manner as may be permitted by law.

64.16 UNSANITARY LIVING CONDITIONS. No person owning, harboring or keeping an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition on the owner or custodian's property, or the abutting property of others.

64.17 KEEPING OF NUMEROUS ANIMALS. It shall be unlawful for any person to keep more than eight dogs and cats within the City, except that a litter of pups and kittens may be kept for a period of time not exceeding five months from birth.

64.18 ENFORCEMENT. Chapter 64 of the City Code may be enforced as a criminal violation or as a municipal infraction.

## **ARTICLE 5 NUISANCES**

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

1. "Nuisance": shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances: (Code of Iowa, 1999, §657.1)

A. Offensive Smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public. [Code of Iowa, 1999, §657.2(1)]

B. Filth or Noisome Substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others. [Code of Iowa, 1999, §657.2(2)]

C. Water Pollution. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others. [Code of Iowa, 1999, §657.2(4)]

D. Blocking Public and Private Ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds. [Code of Iowa, 1999, §657.2 (5)]

E. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of the public street, avenue, highway, boulevard or alley or of a railroad track as to render dangerous the use thereof. [Code of Iowa, 1999, §657.2 (7)]

F. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children. (Supplement to the Code, 1999, §727.3)

G. Storing of Flammable Junk. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper by dealers and such articles within the fire limits of the City, unless it be in a building of fireproof construction. [Code of Iowa, 1999, §657.2 (10)]

H. Air Pollution. The emissions of dense smoke, noxious fumes or fly ash. [Code of

Iowa, 1999, §657.2 (11)]

I. Weeds, grass, uncultivated vegetation. All grass, weeds, and other uncultivated vegetation in excess of the height allowed in Section 67.42 of the City Code.

J. Dutch Elm Disease. Trees infected with Dutch Elm Disease. [Code of Iowa, 1999, §657.2 (13)]

K. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located. [Code of Iowa, 1999, §657.2 (8)]

L. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity, places resorted to by persons using controlled substances in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others. (Code of Iowa, §657.2(6))

M. Obstructing View at Intersections. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.

65.2 NUISANCES PROHIBITED. The creation of maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or state law. (Code of Iowa, 1999, §657.3)

65.3 NUISANCE ABATEMENT. Whenever the mayor or other authorized municipal officer finds that a nuisance exists, he shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. [Code of Iowa, 1999, §364.12 (3h)]

65.4 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain: [Code of Iowa, 1999, §364.12 (3h)]

1. Description of Nuisance. A description of what constitutes the nuisance or other condition.
2. Location of Nuisance. The location of the nuisance or condition.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance or condition.
4. Reasonable Time. A reasonable time within which to complete the abatement.

5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

65.5 METHOD OF SERVICE. The notice may be in form of an ordinance or sent by certified mail to the property owner. [Code of Iowa, 1999, §364.12 (3H)]

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

65.7 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which maybe required under this chapter without prior notice. The city shall assess the costs as provided in Section 65.9 after notice to the property owner under the applicable provisions of Sections 65.3, 65.4 and 65.5 and hearing as provided in Section 65.6. (Code of Iowa, 1999, §364.12 (3h))

65.8 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the clerk who shall pay such expenses on behalf of the city. [Code of Iowa, 1999, §364.12 (3h)]

65.9 COLLECTION OF COSTS. The clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the clerk shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes. [Code of Iowa, 1999, §364.12 (3h)]

65.10 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred (100) dollars, the city shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest as benefited property. (Code of Iowa, 1999, §364.13)

65.11 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate shall be in violation of the city code.

## **ARTICLE 6 TREES**

66.1 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.

66.2 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 director of public works, City Tree Board, or such other person as may be designated by the council.

66.3 TREES IN PARKING. The owners of all lots or parcels of land are hereby granted the right and privilege of planting and maintaining trees, on the parking in front of and beside their property, except as hereinafter provided, and upon the express condition that the right is reserved to the city at any time to use the same for street or sidewalk purposes and to remove all trees therefrom, or other things growing thereon; and providing further that all trees, shall be planted and maintained in accordance with the requirements of this chapter.

66.4 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:

1. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Except as hereafter set forth, trees shall not be planted on the parking if it is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty-five (25) feet to street intersections (property lines extended) and ten (10) feet to driveways. Trees shall be planted not less than thirty (30) feet apart. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb or within the City right-of-way.
3. Prohibited Trees. No person shall hereafter plant in any parking, any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, boxelder, evergreens, soft maple or willow.
4. Linn Avenue and Milwaukee Street. From the date of enactment of this ordinance, no trees shall be planted in the parking on Linn Avenue and on West Milwaukee Street from Linn Avenue west to the corporate limits.

66.5 VISION. No tree shall be maintained upon the parking in such a manner as to interfere with the clear vision of drivers of vehicles, nor within twenty-five (25) feet of any intersection, and any trees existing contrary to the provisions hereof, may be removed by the superintendent without compensation to the abutting property owners.

66.6 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, and do not interfere with or obscure utility wires or street lights. [Code of Iowa, 2017 §364.12(2c)]

66.7 MAINTENANCE. It shall be the duty of the owner and occupant of the abutting or adjacent property to remove all dead, damaged and broken limbs and all limbs which are or may become dangerous to travel upon the public street.

66.8 ASSESSMENT. If the abutting property owner fails to trim or maintain the trees as required in this chapter, the City shall serve notice on the abutting property owner requiring them to do so within thirty (30) days. If the owner fails to trim or maintain the trees within that time, the City or its agent shall perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. [Code of Iowa, 2017, §364.12 (2d & e)]

66.9 REMOVAL OF TREES. The superintendent shall remove, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. The superintendent shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance. [Code of Iowa, 1999, §364.12 (2c) & 372.13(4)]

66.10 TREES SUBJECT TO REMOVAL. The council having determined that the health of the trees within the city is threatened by fatal epidemic diseases and hereby declares the following shall be removed: [Code of Iowa, 1999, §364.12(3b)]

1. Living or Standing Trees. Any living or standing tree or part thereof infected with the fatal epidemic disease.
2. Dead Trees. Any dead tree or part thereof including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective insecticide.

66.11 DUTY TO REMOVE. No person, firm or corporation shall permit any tree or material as defined in this article to remain on the premises owned, controlled or occupied by him within the city. [Code of Iowa, 1999, §364.12 (3b)]

66.12 INSPECTION. The City Tree Board shall inspect or cause to be inspected all premises and places within the city to determine whether any condition as defined in this

article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to be infected.

**66.13 REMOVAL FROM CITY PROPERTY.** If the City Tree Board upon inspection or examination, in person or by some qualified person acting for the Board, determines that a tree in or upon any public street, alley, park or any public place, including the public right-of-way, within the City is so diseased, damaged, or deteriorated so that there is an imminent threat of harm to other trees or property, the Board shall immediately cause said tree to be removed or otherwise correct the same in such manner as to prevent as fully as possible the spread of disease or the threat of harm or damages to the residents of the City or their property.

**66.14 REMOVAL FROM PRIVATE PROPERTY.** If the City Tree Board upon inspection or examination, in person or by some qualified person acting for the Board, shall determine with reasonable certainty that disease, damage, or deterioration exists in a tree on private property and that the condition creates an imminent threat of harm or damage to other trees, neighboring property, or to the public at large, the Board shall immediately notify by certified mail the owner, occupant, or person in charge of said property to remedy and correct such situation within thirty (30) days of said notification. If such owner, occupant, or person in charge of said property fails to do so within thirty (30) days of receipt thereof, the Board or its agent may cause the threat to be remedied, including by removal of the tree and the costs thereof shall be assessed against the property as provided for in Article 5 of Title VI of the City Code. [Code of Iowa, 2017, §364.12 (3b & h)]

If the City Tree Board is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with disease, the Board is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

If the City Tree Board is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with disease, it is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

## **ARTICLE 7 BUILDING AND PROPERTY REGULATIONS**

### **67.1 PROHIBITED SUMP PUMP CONNECTIONS.**

- (a) **SANITARY SEWERS.** Connecting, pumping or draining sump pumps, tile drains, roof drains and any other drain, pump, system or tile designed to carry off surface or percolating waters into the sanitary sewer system is hereby prohibited.
- (b) **OUTLETS TO CITY STREET.** From and after the adoption of this ordinance, no additional sump pumps, tile drains, roof drains, and any other similar system designed to carry off surface or percolating waters shall outlet into a city street.

**67.2 SUMP PUMP CONNECTIONS OR DISCHARGES.** From and after the adoption of this Ordinance, all sump pumps and other systems described in Section 67.1 shall have

a permanent pipe connection to the storm sewer system as long as a connection is reasonably available in the judgment of City officials. If no reasonable connection to a storm sewer is available, the property owner may discharge the water to a seepage collective system, French drain, or any other discharge point on the property owner's property. The surface discharge shall be at least four feet distant from a property line or any sidewalk. It shall be the responsibility of the property owner and any contractor installing a sump pump or drainage system to make the connection in compliance with this ordinance. A contractor shall be defined as any person or entity who receives compensation for the services provided.

**67.3 CONSENT TO INSPECTION OF SUMP PUMPS.** Any person who resides within the corporate limits of the City of New Hampton, Iowa, and whose residence is connected to the sanitary sewer system operated by the City of New Hampton, Iowa, shall be deemed to have given consent to the inspection of said residence for the purpose of determining whether a connecting, pumping or draining sump pump, tile drain, roof drain, or any other drain, pump, system, or tile designed to carry off surface or percolating waters is connected to the sanitary sewer system. The inspection of the residence shall be conducted by the street superintendent or his authorized representative only after notice to the resident and only during the hours during which a search warrant may be executed pursuant to Section 67.23 of this Code.

**67.4 PERMIT AND INSPECTION.** Before the installation or repair of any such pump or drainage system, exclusive of roof drainage emptying at or above ground surface and not connected to any drainage system, a permit shall be obtained for such installation or repair from the street superintendent and upon completion of such installation the same shall be inspected for compliance with this chapter by the street superintendent, or such person as he may designate.

**67.5 INSPECTION OF EXCAVATIONS.** All ditches opened for the purpose of making repairs to existing sewer or water installations, or for the purpose of installing new sewer or water installations, which are connected to the city sewer or water system shall be inspected by the street superintendent, or a person designated by him, after the connections have been made to the city sewer or water systems, and before the ditches have been closed. In the event that any firm, person, or corporation, shall be their agents or otherwise, close a ditch containing connections to the city sewer or water systems before said inspection has been made, the city shall have the right and authority to re-open said ditch or ditches and inspect the same, and assess the cost or re-opening to the property of the firm, or person, or corporation having installations connected to the city sewer or water systems.

**67.6 EXCEPTIONS.** Where connection to the storm sewer system is not practicable, such permanent outside connection for the drainage system herein provided for shall be made at least through the outside wall of the structure to such spillway or other method of disposition as may be used.

**67.7 REFUSAL TO PERMIT SEARCH.** If a residence refuses to permit the street

superintendent or his authorized representative to search his residence after notice of the intent to search, then after giving reasonable notice of the intent to shut off sewer service, the street superintendent may shut off the supply of water to any customer because of any substantial violation of this article that is not being contested in good faith. The service shall not be restored until all violations have been corrected and the street superintendent has ordered the service to be restored.

**67.8 RESISTANCE TO EXECUTION OF WARRANT.** If a resident resists the execution of a warrant by the street superintendent or his authorized representative under this article, for the search of his residence, after notice of the intent to search, then after giving reasonable notice of the intent to shut off the supply of water to any customer because of any substantial violation of this article that is not being contested in good faith. The service shall not be restored until all violations have been corrected and the street superintendent has ordered the service to be restored.

**67.9 SHUTTING OFF SEWER SERVICE.** After giving reasonable notice, the street superintendent may shut off the sewer service to any customer because of any substantial violations of this chapter that is not being contested in good faith. The service shall not be restored until all violations have been corrected and the street superintendent has ordered the service to be restored.

**67.10 DISPOSAL OF DISCHARGE.** Discharge from a sump pump shall be disposed of by the property owner on his own land and during the months of April through October, on the adjacent right-of-way. During the months of November through March, if the discharge flows upon the adjacent right-of-way and creates a hazardous condition due to freezing weather, then the street superintendent may approve an application from the property owner to connect the sump pump to the sanitary sewer if the property owner, at his own expense, installs a valve system, which can be sealed by the city upon approval of his application. Such an application must also grant the city the right and authority to inspect the connection and valve at any reasonable time, without notice to the property owner. This permit shall not be granted if any other non-hazardous method of water disposal exists.

**67.11 INSTALLATION AND REPLACEMENT OF SUMP PUMPS.** All sump pumps newly installed or replacing older pumps shall be connected to the storm sewer system if there is a portion of said system located on right-of-way adjacent to the premises, on any side.

**67.12 INSPECTIONS.** The street superintendent or his authorized representative is authorized to make such inspection and take such actions as may be required to enforce the provisions of the City Code.

**67.13 RIGHT OF ENTRY.** Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this code or other applicable law, or whenever the street superintendent or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition

which makes such building or premises hazardous, unsafe or dangerous for any reason specified in this code or other similar law, the street superintendent or his authorized representative hereby is authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the building official by this code or other applicable law; provided that (1) if such property be occupied, he shall first present proper credentials to the occupant and request entry explaining his reasons therefor; and (2) if such property be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry, explaining his reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the building official or his authorized representative shall have recourse to every remedy provided by law to secure the lawful entry and inspect the property.

67.14 EMERGENCY. If the street superintendent or his authorized representative has reasonable cause to believe that the building or premises is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, he shall have the right to immediately enter and inspect such property, and may use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained. If the property be occupied, he shall first present proper credentials to the occupant and demand entry, explaining his reasons therefor and the purpose of his inspection.

67.15 PENALTY. Any person who: shall fail or refuse, after proper demand has been made upon him as provided in this subsection, to promptly permit the building official or his authorized representative to make any inspection provided for by this chapter, shall be guilty of a simple misdemeanor.

67.16 INSPECTION WARRANTS DEFINED. An inspection warrant is an order in writing, in the name of the city, signed by a magistrate, directed to a duly authorized public official, authorizing him to enter into or upon any public or private property for the purpose of making any inspection authorized by state or local law or regulation relating to building, fire, safety, plumbing, electrical, health, public utility or service or zoning law.

67.17 GROUNDS FOR ISSUANCE. An inspection warrant may be issued to permit any inspection of any property, public or private, which is required or authorized to be made by law. Such a warrant shall be issued upon reasonable cause therefor being shown to the satisfaction of the magistrate by affidavit or declaration under penalty of perjury, particularly describing the property or properties to be inspected and the purpose, scope and legal authority for such inspection. In addition, the affidavit or declaration shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonable justifying the failure to seek such consent.

67.18 FORM. An inspection warrant shall be in substantially the form prescribed for search warrants in Chapter 808 of the Code of Iowa, except that the form of an inspection

warrant shall differ from the form of a search warrant in such respects as are appropriate to state the nature and purpose of such warrant.

67.19 CAUSE. Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises or vehicle, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, premises, or vehicle.

67.20 EXAMINATION UNDER OATH. Before issuing an inspection warrant, the judge may examine on oath the applicant and any other witness, and shall satisfy himself of the existence of grounds for granting such application.

67.21 ISSUANCE. If the judge is satisfied that cause for the inspection exists, he shall issue the warrant particularly describing each place, dwelling, structure, premises, or vehicle to be inspected and designating on the warrant the purpose and limitations of the inspection, including the limitations required by this title.

67.22 TERM. An inspection warrant shall be effective for the time specified therein, but not for a period of more than fourteen (14) days, unless extended or renewed by the judge who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant must be executed and returned to the judge by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void.

67.23 TIME OF INSPECTION. An inspection pursuant to this warrant may not be made between seven (7) o'clock p.m. of any day and seven (7) o'clock a.m. of the succeeding day, nor in the absence of an owner or occupant of the particular place, dwelling, structure, premises or vehicle unless specifically authorized by the judge upon a showing that such authority is reasonable necessary to effectuate the purpose of the regulation being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the judge may expressly authorize a forcible entry where facts are shown sufficient to create a reasonable suspicion of a violation of estate or local law or regulation relating to building, fire, safety, plumbing, electrical, health, or zoning, which, if such violation existed, would be an immediate threat to health or safety, or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. Where prior consent has been sought and refused, notice that a warrant has been issued must be given at least twenty four (24) hours before the warrant is executed, unless the judge finds that immediate execution is reasonably necessary in the circumstances shown.

67.24 PENALTY. Any person who willfully refuses to permit an inspection lawfully authorized by warrant issued pursuant to this title is guilty of a simple misdemeanor.

67.25 DEFINITIONS. The following definitions shall apply to the sections of this Code

which regulate the activities of any person who moves a building.

1. Housemover. A "housemover" shall mean any person who undertakes to move a house, building, accessory building, or similar structure upon, over or across the public streets, alleys, walks or property using skids, jacks, rollers, dollies or a motor vehicle.

2. Accessory Buildings. Accessory buildings shall mean any building, other than a dwelling, with a floor area of 100 square feet or more.

67.26 PERMIT REQUIRED. It shall be unlawful for any person to engage in the activity of housemover as herein defined or to move, set in place or connect to utilities any building which is to be, is being or has been moved without a valid permit from the City of New Hampton for each house, building, accessory building or similar structure to be moved. A violation of this Section shall be a simple misdemeanor.

67.27 APPLICATION. Application for a permit to move a house shall be made in writing to the clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the police chief, zoning administrator, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

4. Plans and Specifications. Plans and specifications showing the proposal of the applicant with reference to the building.

5. Adjacent Owner's Consent. The written consent as required by §67.30.

67.28 BOND REQUIRED. The applicant shall post with the clerk a penal bond in the sum of two thousand (2,000) dollars issued by a surety company authorized to issue such bonds in the State of Iowa. The bond shall guarantee the permit tee's payment for any damage done to the city or to public or private property, and payment of all costs incurred by the city in the course of moving the building or structure.

67.29 INSURANCE REQUIRED. Each applicant shall also have filed a certificate of insurance indicating that he is carrying public liability insurance in effect for the duration of the permit covering himself and his agents and employees for the following minimum amounts:

1. Bodily Injury:           One Hundred Thousand Dollars (\$100,000.00) per person;  
                                  Three Hundred Thousand Dollars (\$300,000.00) per accident.

2. Property Damage: \$50,000.00 per accident.

67.30 ADJACENT OWNER'S CONSENT. The applicant shall file with his application for permit, a written consent signed by all property owners within one hundred thirty two (132) feet of the boundaries of the lot on which it is desired to place the building being moved.

67.31 PERMIT FEE. A permit fee of ten (10) dollars shall be payable at the time of filing the application with the clerk. A separate permit shall be required for each house, building or similar structure to be moved.

67.32 REFERRAL TO ZONING ADMINISTRATOR. Upon receipt of a completed application and the required attachments, the clerk shall refer the application and attachments to the zoning administrative officer for his review and approval for conformity with building and zoning regulations.

67.33 PERMIT ISSUED. Upon approval of the application by the zoning administrative officer and other officials, filing of bond and insurance certificate, and payment of the required fee the clerk shall issue a permit.

67.34 PERMIT DENIED APPEAL. Any applicant unable to obtain such a permit because of the inability to obtain the written consent signed by all of property owners, may, within ten (10) days of the denial of the permit, appeal the matter to the zoning board of adjustment by filing a written appeal with the clerk and paying the required filing fee.

1. Notice and Hearing. Upon receipt of a written appeal the zoning board of adjustment shall set a time and place for hearing on the matter, shall publish notice once in a local newspaper, and shall direct that a copy of said notice be sent to all property owners within one hundred thirty-two (132) feet of the boundaries of the lot on which said building is proposed to be placed, and also to the said applicant, and thereafter shall hold the said hearing at the time and place stated in said notice; at said hearing, any person may appear in person or by agent or by attorney. The board of adjustment shall listen to all of the statements of the proponents and opponents and shall receive any evidence, both in favor of and opposed to the proposed matter, and the board of adjustment shall consider in making its decision, among other things, the condition of the building to be moved, the proposed uses of the said building, the general aesthetic condition of the neighborhood, and the potential for significant reduction of property values by the placement of the said building in the said neighborhood and shall also consider any other circumstances or conditions unusual or unique to the particular situation before the board of adjustment.

2. Action by Board of Adjustment. At the close of the hearing, the board of adjustment may affirm, amend, overrule, reverse or modify the decision to deny the permit and may authorize the moving of the said building, the setting of the same on the new site, and the

connection to utility lines.

3. Appeal to Courts. The decision of the board of adjustment may be appealed to the court as provided by law.

4. Powers of Board of Adjustment. The powers conferred on the board of adjustment by this section shall be in addition to any other powers conferred upon the board of adjustment.

67.35 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permitted shall maintain flag men at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

67.36 TIME LIMIT. No housemover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the city.

67.37 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 67.33 of this chapter the city is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on his bond.

67.38 PROTECT PAVEMENT. It shall be unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved shall be at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building the estimate of the street superintendent as to such weight shall be final.

67.39 ELECTRIC WIRES. The holder of any permit to move a building shall see that all telephone, telegraph and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same. The holder of the permit for moving a building shall give twenty four (24) hours notice to the owner of any telephone, telegraph or electric wires to remove such wires and the owner of such wires may either remove or direct the removal and replacing of such wires, and the holder of the permit shall pay the reasonable costs thereof.

67.40 EXCEPTIONS. The provisions of Section 67.30 shall not be applicable to any home which is of an age of five (5) years or less at the time of the said application for moving permit and which was not constructed on the site to which it is intended to be moved, but which was constructed to the standards and requirements which would be acceptable at that particular time to state employed and/or federally employed building

inspectors.

The applicant shall provide a sworn and notarized certification that such house was constructed in accordance with the aforementioned standards that the builder's practices and construction are generally subject to inspection and scrutiny by state or federal employed building inspectors, and that said house meets the standards regularly invoked by said inspectors.

67.41 **ADDITIONAL PERMITS NOT REQUIRED.** Only one permit shall be required for the moving and setting in place of any building which is affected by this chapter, and no applicant shall be required to obtain separate permits for the moving and setting in place for any one building.

67.42 **DUTY TO MOW.** The owner and occupant of any property within 100 feet of a lot that is inhabited shall have the duty to mow and cut all such lawns and lots so that grass, weeds, and uncultivated vegetation do not exceed eight inches in height at any time.

67.43 **NOTICE.** If the City determines that an owner or occupant is failing to maintain property as provided for above, the City Clerk may direct that a notice be served on the owner or occupant directing said owner or occupant to cut or mow as required within a specified time. Notice may be served either personally or by mailing the notice by certified mail, return receipt requested, to the last known address of the owner or occupant.

67.44 **CUTTING AND MOWING BY CITY AND ASSESSMENT TO PROPERTY OWNER.** If a property owner refuses or fails to cut and mow as required above after receiving notice from the City as provided for above, the Council may authorize completion of the mowing or cutting and shall assess the cost against the property for collection in the same manner as a property tax.

67.45 **LIMITS ON CITY DUTY.** Regardless of the above, the City shall not have any duty to cut or mow all grass or weeds that are in excess of the permitted height.

67.46 **BURYING PROHIBITED.** No property owner or contractor who demolishes a building, structure, driveway, sidewalk, or parking lot, or who cuts down a tree shall bury any portion thereof on the property where said demolition or removal occurs. The City may require the owner or contractor to retain a portion of the property to be demolished if necessary to protect or preserve adjoining property.

## **ARTICLE 8 MOBILE HOMES AND MOBILE HOME PARKS**

68.1 **PURPOSE.** The purpose of this chapter is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare.

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

1. "Mobile Home" or "House Trailer": shall mean any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. [Code of Iowa, 1999, §135D.1 (1)]

2. "Mobile Home Park" or "Trailer Camp": shall mean any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. [Code of Iowa, 1999, §135D.1 (2)]

68.3 LOCATION OF MOBILE HOMES. It shall be unlawful for any person, firm or corporation to park or place any mobile home on the streets, alleys or highways, any public place, or on any private land within this city, except as is provided by state law and this chapter. This section shall not apply to:

1. Mobile Home Parks. Mobile homes parked or placed within duly licensed mobile home parks.
2. Dealer's Stock. Mobile homes parked upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.
3. Storage. Unoccupied mobile homes or trailers stored or parked by the owner thereof on the rear portion of said owner's homestead property, provided such parking or storage shall not exceed a period of six (6) months.

68.4 SPECIAL PERMITS. The council, upon application of a mobile home owner, may issue special permits for the location of mobile homes outside mobile home parks. The council shall issue such special permits only when it appears that location within local mobile home parks is impracticable and public health, safety and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of three (3) months nor unless city water and sewer connections are made. Not more than one mobile home shall be permitted to be located on the same premises outside of mobile home parks.

68.5 APPLICATION FOR SPECIAL PERMIT. Application for a special permit shall contain:

1. Description of Mobile Home. A description of the applicant's mobile home and a

statement that its value is at least two thousand (2,000) dollars.

2. Property Description. A property description of the place where the mobile home will be located.

3. Property Owner. Certification that the applicant is the owner of the premises upon which the mobile home will be located.

4. Water and Sanitation Facilities. Certification that public water and any sewer facilities are available for connection to the mobile home at the place of location.

5. Mobile Home Park. A statement concerning the practicability of location within a local mobile home park.

6. Duration of Permit. A statement of the desired duration of the special permit.

7. Adjacent Owner's Consent. Evidence of the written consent of all property owners within one hundred thirty-two (132) feet and sixty (60) percent of the property owners within a radius of two hundred sixty-eight (268) of the lot or land where the mobile home or trailer will be placed.

68.6 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys or highways or any other public or private place for a period not in excess of forty-eight (48) hours shall not constitute a violation of Section 68.3, but such parking shall be subject to any prohibitions or regulations contained in other ordinances of this city.

68.7 MOBILE HOME PARK LICENSE. No person, firm or corporation shall establish, maintain, conduct or operate a mobile home park within this city without first obtaining an annual license therefor from the state department of health. No person, firm or corporation shall construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park within this city without first obtaining a permit therefor from the state department of health. (Code of Iowa, 1999, §135D.3 & 135D.7)

68.8 ZONING. No person shall establish, expand or operate a mobile home park except in conformity with applicable zoning regulations.

## **ARTICLE 9 ABANDONED AND JUNK VEHICLES AND UNSIGHTLY MATERIALS**

69.1 DEFINITIONS FOR ABANDONED VEHICLES. For use in this article the following terms are defined:

1. "Abandoned Vehicle": shall mean any of the following: [Code of Iowa, 1999, §321.89 (1b)]

A. A motor vehicle that has been left unattended on public property for more than forty-eight (48) hours and lacks current registration plates, or is inoperable, or

B. A motor vehicle that has remained illegally on public property for more than seventy-two (72) hours, or

C. A motor 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 (24) hours, or

D. A motor vehicle that has been legally impounded by order of the chief of police and has not been reclaimed for a period of ten (10) days.

E. Any vehicle parked on a street that a member of the Police Department determines is creating a hazard to other vehicle traffic.

2. "Inoperable Vehicle": shall mean any motor vehicle that lacks an engine or two or more wheels or other structural part that renders the vehicle totally inoperable.

69.2 REMOVAL OF ABANDONED MOTOR VEHICLES. The policy chief may remove and impound any abandoned motor vehicle whether in operable or totally inoperable condition. Impoundment shall be in any city owned garage or area, or in any privately owned public garage or area designated by the council. [Code of Iowa, 1999, §321.89 (2)]

69.3 NOTICE BY MAIL. The police chief shall notify by certified mail within ten (10) days of having taken possession of any abandoned operable motor vehicle, the last known registered owner of the motor vehicle and all lienholders of record, addressed to their last known address of record that the abandoned motor vehicle has been taken into custody. Notice shall be deemed given when mailed. Notice shall describe the year, make, model and serial number of the motor vehicle, set forth the location of the facility where it is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle within twenty-one (21) days after the effective date of the notice upon payment of all towing, preservation and storage charges resulting from placing the motor vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the motor vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the motor vehicle and that such failure to reclaim is deemed consent to the sale of the motor vehicle at a public auction or disposal of the motor vehicle to a demolisher. If the owner and lienholders do not exercise their right, they shall have no further right, title, claim or interest in or to such motor vehicle, as provided by law. [Code of Iowa, 1999, §321.89 (3a)]

69.4 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner of an abandoned but operable vehicle cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in this city shall be made by the police chief and multiple listings may be included in said notice if they are subject to the same time limits, and the same information as prescribed for mailed notice shall be included.[Code of Iowa, 1999, §321.89 (3b)]

69.5 EXTENSION OF TIME. The owner of any lien holder may, by written request delivered to the police chief prior to the expiration of the fourteen (14) day reclaiming period, obtain an additional fourteen (14) days within which the motor vehicle may be reclaimed. [Code of Iowa, 1999, §321.89 (3c)]

69.6 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay three (3) dollars if claimed within five (5) days of impounding, plus one dollar for each additional day within the reclaiming period plus towing charges if stored by the city, or upon payment of the towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges and the rate of storage charges by privately owned garages shall be established by resolution of the council. [Code of Iowa, 1999, §321.89 (3a)]

69.7 DISPOSAL OF VEHICLES. If an abandoned motor vehicle has not been reclaimed as provided by Section 52.3, the police chief shall arrange for its sale. [Code of Iowa, 1999, §321.89 (4)]

69.8 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall apply to the cost of towing, preserving, storing and notification required, in accordance with state law. Any balance shall be held for the owner of the motor vehicle or entitled lien holder for ninety (90) days, and then shall be deposited in the reimbursement fund of the Iowa Department of Public Safety. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police chief shall apply for reimbursement from the department of public safety. [Code of Iowa, 1999, §321.89 (4)]

69.9 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such a motor vehicle. When a demolisher acquires a motor vehicle under Section 52.7, the demolisher shall apply to the police chief for a certificate to demolish the vehicle. The application shall include the name and address of the applicant, the year, make, model and serial number of the motor vehicle. After the motor vehicle has been demolished, processed or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender the auction sales receipt or certificate of authority to dispose of or demolish a motor vehicle to the state department of public safety for cancellation. [Code of Iowa, 1999, §321.90(3a)]

69.10 DEFINITIONS OF JUNKED VEHICLES AND MACHINERY. For use in this

article, the term "junk motor vehicle" or "junk machinery" shall mean any motor vehicle or piece of machinery stored within the corporate limits of the city, which, because of any of the following characteristics, constitutes a threat to the public health and safety:

1. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
2. Broken or Loose Part. Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe or decorative piece.
3. Habitat for Nuisance Animals or Insects. Any vehicle or piece of machinery which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
4. Flammable Fuel. Any vehicle or machinery which is inoperable, but which contains gasoline or any other flammable fuel.
5. Defective or Obsolete Condition. Any other vehicle or piece of machinery which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

The mere licensing of a vehicle may be a factor in determining whether it is a junk vehicle, but shall not be a defense to a finding that the vehicle is a junk vehicle.

69.11 JUNKED VEHICLES AND MACHINERY A NUISANCE. Storage within the corporate limits of a junk motor vehicle or junk machinery upon private property owned or controlled by the owner of the vehicle or machinery, unless excepted by Section 52.12 constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of the Code of Iowa, 1999, Section 657.1. If any junk motor vehicle or machinery is stored upon private property in violation hereof, the owner or person in control of the property upon which it is stored shall be prima facie liable for said violation. [Code of Iowa, 1999, §364.12(3a)]

69.12 EXCEPTIONS. The provisions of this chapter shall not apply to junk motor vehicles or junk machinery stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

69.13 NOTICE TO ABATE. Upon discovery of any junk motor vehicle or junk machinery stored upon private property in violation of Section 52.11 the police chief shall within five (5) days initiate abatement procedures as outlined in Sections 65.3 through 65.11 [Code of Iowa, 1999, §364.12 (3a)]

69.14 RESTORATION PERMIT. Upon application by a resident owner of a motor vehicle, the clerk shall issue a six (6) month permit allowing the owner of a vehicle to keep and restore one junk motor vehicle or piece of junk machinery on premises located within the corporate limits of the city. This permit shall be valid for a period of six (6) months from the date of issue and may be re-issued by the clerk only after inspection by the chief of police.

69.15 UNSIGHTLY MATERIALS. For use in this article, the term "unsightly materials" shall include putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, putrescible and non-putrescible solid materials (except body materials), including ashes, street cleanings, dead animals, abandoned automobile and solid market and industrial materials, non-putrescible solid materials consisting of both combustible and non-combustible materials, including paper, metal, wood, glass, cloth, rubber, plastic.

69.16 UNSIGHTLY MATERIALS KEPT FROM VIEW. The owner or occupant of private property shall maintain his premises so that no unsightly materials located on the premises can be seen from any public street or alley or any other residential premises in city.

69.17 CONCEALED BY FENCE. The owner or occupant of any premises zoned commercial or industrial may conceal the presence of unsightly materials by erection of a fence.