

Cascade  
City Code  
of  
Ordinances

2021

State legislation at any time can be enacted that would change the current law as adopted in your City Code. ECIA has no duty or responsibility to keep you updated on law changes. However, ECIA will make every attempt to notify you when legislative changes occur that have an impact on your City Code. It is the municipality's responsibility to either repeal or amend the ordinances impacted by the legislative changes. ECIA advises you to have your City Attorney review your City Code and the legislative changes that occur after the date of the City's last codification. ECIA cannot provide legal advice

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CODIFIED BY: EAST CENTRAL INTERGOVERNMENTAL ASSOCIATION  
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## TABLE OF CONTENTS

TITLE I GENERAL PROVISIONS . . . . .	1
CHAPTER 1 GENERAL PROVISIONS . . . . .	1
CHAPTER 2 RIGHT OF ENTRY . . . . .	6
CHAPTER 3 PENALTY . . . . .	7
CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL . . . . .	11
TITLE II POLICY AND ADMINISTRATION . . . . .	14
CHAPTER 1 CITY CHARTER . . . . .	14
CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS	15
CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS . . . . .	17
CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS . . . . .	30
CHAPTER 5 CITY FINANCE . . . . .	31
CHAPTER 6 RESERVED . . . . .	36
CHAPTER 7 CITY COUNCIL . . . . .	37
CHAPTER 8 PLANNING AND ZONING COMMISSION . . . . .	40
CHAPTER 9 PARKS AND RECREATION BOARD . . . . .	43
CHAPTER 10 UTILITY BOARD OF TRUSTEES . . . . .	45
CHAPTER 11 CABLE REGULATORY COMMISSION . . . . .	47
CHAPTER 12 CITY ELECTIONS . . . . .	50
TITLE III COMMUNITY PROTECTION . . . . .	52
CHAPTER 1 OFFENSES . . . . .	52
CHAPTER 2 NUISANCES . . . . .	62
CHAPTER 3 TRAFFIC CODE . . . . .	70
CHAPTER 4 RESERVED . . . . .	106
CHAPTER 5 FIRE PROTECTION . . . . .	107
CHAPTER 6 CURFEW FOR MINORS . . . . .	111
CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS . . . . .	115
CHAPTER 8 CIGARETTE/TOBACCO/NICOTINE/VAPOR PERMITS . . . . .	118

CHAPTER 9 ALCOHOLIC BEVERAGES .....	120
CHAPTER 10 JUNK AND ABANDONED (JUNK) VEHICLES .....	122
CHAPTER 11 DANGEROUS BUILDINGS .....	130
CHAPTER 12 POLICE DEPARTMENT .....	133
CHAPTER 13 RESERVE POLICE FORCE .....	1355
CHAPTER 14 EMERGENCY MEDICAL SERVICE .....	1366
CHAPTER 15 HAZARDOUS SUBSTANCE SPILLS .....	139
CHAPTER 16 SNOW REMOVAL .....	142
CHAPTER 17 FIREWORKS .....	144
TITLE IV MENTAL AND PHYSICAL HEALTH .....	146
CHAPTER 1 ANIMAL CONTROL .....	146
TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE .....	155
CHAPTER 1 LIBRARY SERVICES .....	155
TITLE VI PHYSICAL ENVIRONMENT .....	159
CHAPTER 1 MOBILE HOME REGULATION .....	159
CHAPTER 2 UTILITIES - SANITARY SYSTEM .....	163
CHAPTER 3 UTILITIES - WATER SYSTEM .....	181
CHAPTER 4 UTILITIES - REFUSE COLLECTION .....	197
CHAPTER 5 UTILITIES - BILLING CHARGES .....	201
CHAPTER 6 STREET CUTS AND EXCAVATIONS .....	208
CHAPTER 6A STREET USE .....	215
CHAPTER 7 SUBDIVISION REGULATIONS .....	216
CHAPTER 8 SIDEWALK REGULATIONS .....	230
CHAPTER 9 FLOOD PLAIN REGULATIONS .....	237
CHAPTER 10 RESTRICTED RESIDENCE DISTRICT .....	258
CHAPTER 11 ZONING REGULATIONS .....	261
CHAPTER 12 BUILDING PERMITS .....	265
CHAPTER 13 STORM WATER MANAGEMENT .....	268
TITLE VII SPECIAL ORDINANCES .....	273
CHAPTER 1 UTILITY EASEMENTS .....	273
CHAPTER 3 CABLE TELEVISION FRANCHISE (VIDEO) FRANCHISE .....	274
CHAPTER 4 REGULATION OF CABLE TELEVISION RATES .....	287

CHAPTER 5 CABLE TELEVISION CUSTOMER SERVICE STANDARDS . . . . .	290
CHAPTER 6 HOUSE MOVERS . . . . .	293
CHAPTER 7 ADULT ORIENTED ESTABLISHMENTS . . . . .	295
CHAPTER 8 VACATION AND DISPOSAL OF STREETS . . . . .	299
CHAPTER 9 STREET GRADES . . . . .	301
CHAPTER 10 NAMING OF STREETS . . . . .	302
CHAPTER 11 CONTROLLED ACCESS FACILITIES . . . . .	304
CHAPTER 12 TREES . . . . .	307
CHAPTER 13 DOWNTOWN COMMERCIAL BUILDINGS . . . . .	309
CHAPTER 14 NUMBERING OF BUILDINGS . . . . .	310
CHAPTER 15 INDUSTRIAL PROPERTY TAX EXEMPTIONS . . . . .	312
CHAPTER 16 TAX INCREMENT FINANCING . . . . .	315
CHAPTER 17 PARK REGULATIONS . . . . .	324

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 1 GENERAL PROVISIONS**

1-1-1	Definitions	1-1-7	Catchlines, Titles, Headings and Notes
1-1-2	Grammatical Interpretation		
1-1-3	Prohibited Acts Include Causing, Permitting	1-1-8	Amendments to Code, Effect of New Ordinances, Amendatory Language
1-1-4	Construction		
1-1-5	Amendment	1-1-9	Indemnity
1-1-6	Severability		

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

1. "Building" means any man-made structure permanently affixed to the ground.  
(ECIA Model Code Amended in 2011)

1-A "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.

1-B "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).

1-C "Code of Ordinances" means the Code of Ordinances of the City of Cascade, Iowa.

2. "City" means the City of Cascade, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;

3. "Clerk" means Clerk-Treasurer.

4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;

5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;

6. "County" means Dubuque County or Jones County, Iowa;

7. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

(ECIA Model Code Amended in 2010)

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

9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;

10. "May" confers a power;

11. "Month" means a calendar month;

12. "Must" states a requirement;

13. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";

13-A "Measure" means an Ordinance, Amendment, Resolution, or Motion.

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

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

16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;

17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;

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

19. "Preceding" and "following" mean next before and next after, respectively;

20. "Property" includes real and personal property;

21. "Real property" includes any interest in land;

22. "Shall" imposes a duty;

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

24. "State" means the State of Iowa;

24-A "Statutes" or "laws" means the latest edition of the Code of Iowa.

25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;

27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;

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

29. "Year" means a calendar year;

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

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

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

1. Gender. Any gender includes the other gender;

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

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

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

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

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

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Cascade Municipal Code of 2020 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

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

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

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

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in

substantially the following language: “That section \_\_\_\_\_ of the Code of Ordinances, City of Cascade, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

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

(ECIA Model Code Amended in 2010)

1-1-9 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

## **TITLE I GENERAL PROVISIONS**

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

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

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

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 3 PENALTY**

1-3-1 General Penalty  
1-3-2 Civil Penalty - Municipal  
Infraction

1-3-3 Scheduled Fines

1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a).

Code of Iowa, Sec. 903.1(1)(a)  
(ECIA Model Code Amended in 2008)  
(ECIA Model Code Amended in 2009)  
(ECIA Model Code Amended in 2010)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

#### **1. Definitions.**

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

Environmental Violation. A municipal infraction which is a violation of Chapter 455B of the Code of Iowa or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. 403.8.
2. The discharge of airborne residue from grain created by the handling, drying, or storing of grain by a person not engaged in the industrial production of manufacturing of grain products or by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

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

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

### Schedule of Civil Penalties

First offense: Written Warning

Second Offense: \$125.00 plus court costs

Third and Each Repeat Offense: \$250.00 plus court costs  
(Ord 14-16 7-25-16)

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

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

## 3. Civil Citations

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

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

c. The original of the citation shall be sent to the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the County Treasurer.

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

- (1) The name and address of the defendant.

- citation.
- (2) The name or description of the infraction attested to by the officer issuing the citation.
  - (3) The location and time of the infraction.
  - (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
  - (5) The manner, location, and time in which the penalty may be paid.
  - (6) The time and place of court appearance.
  - (7) The penalty for failure to appear in court.
  - (8) The legal description of the affected property, if applicable.

#### Special Civil Penalties

A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. 403.8, by an industrial user shall be punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation shall be punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation shall not be subject to such penalty if all of the following conditions are satisfied:

1. The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
2. The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
3. The violation does not continue in existence for more than eight (8) hours.
4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation

be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of \$100.00.

(ECIA Model Code Amended in 2017)

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

## **TITLE I GENERAL PROVISIONS**

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

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

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

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

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

#### **1-4-2 GENERAL.**

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

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

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

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

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

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

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

"You are hereby notified that an evidentiary hearing will be held before the \_\_\_\_\_ City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

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

#### 1-4-5 CONDUCT OF HEARING.

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

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

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

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

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

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

- a. To call and examine witnesses on any matter relevant to the issues of the hearing;
- b. To introduce documentary and physical evidence;
- c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- d. To impeach any witness regardless of which party first called the witness to testify;
- e. To rebut the evidence against the party; and
- f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

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

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

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

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

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

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

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

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 1 CITY CHARTER**

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS**

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

2-2-1 **CREATION OF APPOINTIVE OFFICERS.** There are hereby created the following appointive officers: City Clerk (Treasurer), City Administrator, Attorney, Superintendent of Public Works, Police Chief, and Fire Chief.

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

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

(Code of Iowa, Sec. **372.4(2)**)

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

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

2-2-5 **BONDS REQUIRED.** Each municipal officer required by law or Ordinance to be bonded (Mayor, Clerk, Treasurer and such officers and employees as may be necessary and advisable) shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

## 2-2-9 BOARDS AND COMMISSIONS.

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

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

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

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

## **TITLE II POLICY AND ADMINISTRATION**

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

2-3-1	General Duties	2-3-8	Powers and Duties of the City Attorney
2-3-2	Books and Records	2-3-9	Powers and Duties of the City Administrator
2-3-3	Deposits of Municipal Funds	2-3-10	Powers and Duties of the Superintendent of Public Works
2-3-4	Transfer of Records and Property To Successor	2-3-11	Powers and Duties of the Fire Chief
2-3-5	Powers and Duties of the Mayor		
2-3-6	Powers and Duties of the Clerk (Treasurer)		
2-3-7	Powers and Duties of the Police Chief		

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

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

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

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

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

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

2-3-5 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

The Mayor is elected for a term of two (2) years. (Code of Iowa, Sec. 376.2)

1. The Mayor shall act as the chief executive officer of the City and presiding officer of the Council; except for the supervisory duties delegated to the City Administrator; supervise all departments of the City; give direction to department heads concerning the function of the departments; and have the power to examine all functions of the municipal departments, their records and to all for special reports from department heads at any time.

(Code of Iowa, Section 372.14(1))

(Ord. 01-16, Passed February 8, 2016)

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

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

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

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

(Code of Iowa. Sec. 380.6)

(Amended during 2008)

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

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

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

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

8. Immediately after taking office the Mayor shall designate one member of the City Council as **Mayor pro tempore**. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to appoint, employ or discharge from employment officers or employees without the approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council. (Code of Iowa, Sec. 372.14(3))

8-1 The Mayor shall appoint the following officials upon City Council approval:  
Police Chief, Library Board of Trustees, Utility Board of Trustees

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

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

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

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

13. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders. (Code of Iowa, Sec. 372.14[2])

14. The Mayor is not a member of the Council and may not vote as a member of the Council.  
(Code of Iowa, Sec 372.4)

15. The Mayor, together with the City Administrator, shall have the authority to make or authorize necessary expenditures on behalf of the city or city departments up to \$500.00.

2-3-6 POWERS AND DUTIES OF THE CLERK (TREASURER). The duties of the Clerk shall be as follows:

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

7. The Clerk shall be the chief accounting officer of the City and be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

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

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

16. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk control when it may be necessary to such officer in the discharge of the Clerk duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.

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

2-3-7 POWERS AND DUTIES OF THE POLICE CHIEF. The duties of the Police Chief shall be as follows:

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

1. The Police Chief shall wear upon the Police Chief's outer garment and in plain view a badge engraved with "Police", and such uniform as may be specified by the City Council.

2. The Police Chief shall assist prosecutors in prosecuting any persons for the violation of an Ordinance by gathering all the facts and circumstances surrounding the case.

3. The Police Chief shall be sergeant-at-arms of the Council chamber when requested by the City Council.

4. The Police Chief shall report to the City Council upon activities as Police Chief when requested.

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

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

7. The Police Chief shall, whenever any person is bound over to the district court, convey the prisoner to the County jail.

8. The Police Chief shall execute all lawful orders of any board or commission established by the City Council.

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

10. The Police Chief may appoint one or more assistant Police Chiefs, with approval of the City Council, who may perform the Police Chief's duties and who shall be members of the police force.

(ECIA Model Code Amended in 2014)

11. The Police Chief shall make such rules, not in conflict with the provisions of this Ordinance, as needed for the detailed operation of the police department, subject to the approval of the City Council. Such rules shall cover off-duty and on-duty conduct and activity of members, the wearing and care of the uniform, the use and practice with side arms and other police weapons, the use of police radio and other communications, attendance at training meetings and such other matters as the Police Chief determines to be necessary for the operation of the police department. The Police Chief shall see that the discipline and conduct of the department conforms to rules of the department. In the event of an emergency the Police Chief may make temporary rules for the protection of the health, safety, and welfare of the City and its citizens until due consideration by the City Council may be had.

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

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

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

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

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

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

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

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

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

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

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

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

7. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

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

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

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

2-3-9 **POWERS AND DUTIES OF THE CITY ADMINISTRATOR.** The general duties of the office shall be to coordinate the activities, policies and procedures of the City government. The Administrator shall be directly responsible to the Mayor and Council for the administration of municipal affairs as directed by the Mayor or Council. The department heads of the City shall report and coordinate with the Administrator. All departmental activity requiring the attention of the Council shall be brought before the Council by the Administrator, and all Council involvement in administration initiated by the Council shall be coordinated through the Administrator. This does not preclude department heads or City employees from bringing matters to the attention of the Mayor or Council. Without limiting the foregoing, the duties of the Administrator shall include the following:

1. To supervise enforcement of City laws and assure that resolutions, ordinances, laws and Council directives and operational policies are enforced and executed, or referred to the proper official for compliance.
2. To attend meetings of the Council unless excused by the Mayor.
3. To recommend to the Council measures necessary or expedient for good government and welfare of the City.
4. To provide general supervision and direction for the administration of the City government to expedite efficient administration of the City's business.
5. To supervise and coordinate the performance of contracts for work to be done for the City, and all purchases of material and supplies, ensure that material and supplies are received and are of the quality and specification called for by the contract, and to consult with department heads with reference to said contracts.
6. To cooperate with and advise present or future administrative agencies, boards or commissions which are responsible to the Mayor and the Council.
7. To coordinate with the Clerk and communicate with and keep the Council fully informed of the financial condition of City departments and of their financial management, progress, budgets, background or historical information, future needs, goals and objectives in language and format for public consumption.
8. To introduce new and approved methods for the elimination of wasteful practices following modern municipal procedures and law requirements.
9. To perform administrative duties designated by resolution of the Council.
10. To advise the Council on participation in programs and policies with another government political subdivision, including city, county, state or federal entities and/or which may be affected by court decisions, liability or other related matters and suggest and coordinate City grant proposals.
11. To participate in public relations and public information activities and programs to keep the public informed through speeches, attendance at meetings and social gatherings and to provide information to the media.
12. To issue building permits pursuant to Chapter 155 of this Code of Ordinances.
13. To make for the Council periodic itemized financial reports in writing concerning current and completed projects.````
14. To assemble the department heads' proposed annual departmental budgets, which proposals shall include projected revenues, proposed expenditures and salary requests. Such

information shall be submitted to the Clerk no later than February 1 of each year in order that the Clerk may submit the completed proposed budget to the Council no later than February 15 of each year. The City Administrator shall coordinate the final budget preparation with the Clerk.

15. To coordinate with the Clerk to cause accurate records of the City to be kept.

16. To designate one or more City employees to discharge the duties of the office of City Administrator when the Administrator is absent from his or her position or when the position is vacant. Said designation shall be subject to Council approval.

17. To issue written order for removal, at City expense, any nuisance for which no person can be found responsible and liable.

18. To obtain for the City, upon order of the Council, such specialized and professional services deemed necessary by the Council and not already available to the City.

19. To supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City.

20 To serve as City liaison with local economic development groups.

21. To serve as Zoning Administration officer to administer and enforce the City Zoning Ordinance.

22. To perform such other duties as the Council may direct.

2-3-10 POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC WORKS. The duties of the Superintendent of public works shall be as follows:

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

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

2. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council.

3. The Superintendent shall supervise the installation of wastewater service pipes and their connection to the sewer main and enforce all regulations pertaining to wastewater services in the City in accordance with this chapter.

4. The Superintendent shall supervise and maintain the City's water and wastewater facilities and systems.

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

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

5. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department.

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

2-3-11 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.

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

3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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

6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

- a. Fire prevention.
- b. Maintenance and use of fire escapes.
- c. The investigation of the cause, origin and circumstances of fires.
- d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

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

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

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

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

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

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$50.00 for each meeting of the City Council.

(Code of Iowa, Sec. 372.13(8))  
(Ord 4-15, 3-09-15)

2-4-2 MAYOR. Compensation for Mayor in the City of Cascade, Iowa, beginning January 1, 2016 shall be Fifty Dollars (\$50.00) per meeting, in addition to the annual salary of Twelve Hundred (\$1200.00).

(Ord 04-15, 3-09-15)

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

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

2-4-4 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1	Budget Preparation	2-5-8	Budget Officer
2-5-2	Budget Amendment	2-5-9	Expenditures
2-5-3	Reserved	2-5-10	Authorizations to Expend
2-5-4	Accounts and Programs	2-5-11	Accounting
2-5-5	Annual Report	2-5-12	Budget Accounts
2-5-6	Council Transfers	2-5-13	Contingency Accounts
2-5-7	Reserved		

2-5-1 BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible  
For preparation of the Annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions, and  
Other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the  
completed budget proposal to the Council each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars.  
The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

- A. The Council shall set a time and place for a public hearing on the resolution before the date of adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior the hearing in a newspaper published at least once weekly and having general circulation in the City.
- B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the

public hearing notice or an electronic link to the public hearing shall be posted on each such account on the same day as the publication notice. All of the following shall be included in the notice:

1. The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
2. The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural and horticultural purposes.
3. The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed agricultural or horticultural purposes.
4. If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

5. Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

- C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.
- D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in the subsection exceeds 102 percent or the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.
- E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10

days of approval by the City Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.

6. Council review. The Council shall review the proposed budget and may make any adjustment it deems appropriate in the budget before accepting such proposal for publication, hearing and final adoption.

7. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice under this subsection 4 of this section must be filed with the County Auditor.

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

8. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of the taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and the City Library.

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

9. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.

4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in Section 2-5-3 of this chapter, except that the City Finance Committee may by rule provide those amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

### 2-5-3 RESERVED

(ECIA Model Code Amended in 2014)

2-5-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State City Finance Committee.

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

(Code of Iowa, Sec. 384.20)

2-5-5 ANNUAL REPORT. Not later than December first of each year the City shall publish an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

2-5-6 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

**2-5-7     RESERVED**

**(ECIA Model Code Amended in 2014)**

2-5-8     **BUDGET OFFICER.** The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-9     **EXPENDITURES.** No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding ten dollars (\$10.00) (or an amount determined by City Council) may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the Clerk. Purchases from petty cash shall be excepted.

2-5-10    **AUTHORIZATIONS TO EXPEND.** All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

2-5-11    **ACCOUNTING.** The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk (and \_\_\_\_\_#).

(Code of Iowa, Sec. 384.20)

2-5-12    **BUDGET ACCOUNTS.** The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information

and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.  
(Code of Iowa, Sec. 384.20)

2-5-13 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 6 RESERVED**

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 7 CITY COUNCIL**

2-7-1	Powers and Duties	2-7-3 Meetings
2-7-2	Exercise of Power	
2-7-4	Appointments	

2-7-1 **POWER AND DUTIES.** The powers and duties of the City Council include, but are not limited to the following:

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

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

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

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

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

(Code of Iowa, Sec. 364.2(1), 384.16 & 384.38(1))

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

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

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

(Code of Iowa, Sec. 364.2(1) & 384.95 through 384.102)

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

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

7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of

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

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

2-7-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

1. Approved Action by the City Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of twenty-five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

(ECIA Model Code Amended in 2008)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City Council members, and the ordinance or resolution becomes effective upon repassage and publication.

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

3. Measures Become Effective. Measures passed by the City Council, other than motions, become effective in one of the following ways:

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

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

b. If the Mayor vetoes a measure and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when published unless a subsequent effective date is provided with the measure.

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

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

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

2-7-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 2-9-3 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the Council are on the second and fourth Mondays of each month at six o'clock (6:00) p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the Council.

(Ord. 49-14, Passed July 28, 2014)

(Ord. 06-15, Passed April 27, 2015)

(Ord. 05-16, Passed February 8, 2016)

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.

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

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

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

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

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

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

2-7-4 APPOINTMENTS. The Council shall appoint the following officials and prescribe their powers, duties, compensation, and term of office:

City Clerk, City Attorney, City Administrator, Planning and Zoning Commission, Parks and Recreation Board, Cable Regulatory Commission, Water Superintendent, Sewer Superintendent, Zoning Board of Adjustment, Health Officer.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 8 PLANNING AND ZONING COMMISSION**

2-8-1	Planning and Zoning Commission	2-8-5	Compensation
2-8-2	Term of Office	2-8-6	Powers and Duties
2-8-3	Meetings		
2-8-4	Vacancies		

2-8-1 **PLANNING AND ZONING COMMISSION.** There shall be a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members. Members shall be bona fide residents of the City, over the age of eighteen (18) years, and appointed by the Council. Commission members shall be qualified by knowledge or experience to act in matters pertaining to the development of a City plan, shall not be an employee of the City, and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6, 414.23 & 392.1)

2-8-2 **TERM OF OFFICE.** The term of office of the members of the Commission is three (3) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

2-8-3 **MEETINGS.** The Commission meetings are on the third Thursday of each month, as needed, at seven o'clock (7:00) p.m.

2-8-4 **VACANCIES.** If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

2-8-5 **COMPENSATION.** Members of the Commission shall receive such compensation as established by resolution of the Council. Commission members not wanting to receive said compensation shall submit a written statement to the City Clerk stating the desire not to be compensated.

2-8-6 **POWERS AND DUTIES.** The Commission has and exercises the following powers and duties:

1. **Selection of Officers.** The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

(Code of Iowa, Sec. 392.1)

2. **Adopt Rules and Regulations.** The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

(Code of Iowa, Sec. 392.1)

3. Annual Report. The Commission shall each year make a report to the Mayor and Council of its proceedings, with a full statement of its receipts, disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the expenditure of funds, the Commission may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

(Code of Iowa, Sec. 392.1)

5. Comprehensive Plan. The Commission shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the City or of any land outside thereof which, in the opinion of the Commission, bear relation to the comprehensive plan and shall bring its studies and recommendations to the attention of the Council and may also publish such studies and recommendations.

(Code of Iowa, Sec. 414.3)

6. Recommendations of Improvements. No statutory, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

7. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

8. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

9. Zoning. The Commission shall have and exercise all the powers and duties in preparing the City zoning regulations, and may from time to time recommend to the Council amendments, supplements, changes or modification, all as provided by Chapter 414 of the Code of Iowa.

(Code of Iowa, Sec. 414.6)

10. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

11. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.

(Code of Iowa, Sec. 392.1)

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 9 PARKS AND RECREATION BOARD**

2-9-1	Board Created	2-9-5	Reports
2-9-2	Organization	2-9-6	Rules
2-9-3	Meetings	2-9-7	Penalties
2-9-4	Duties		

2-9-1 **BOARD CREATED.** A Parks and Recreation Board is hereby created to advise the Council on needed facilities to provide open space such as parks, playgrounds, and community facilities for other forms of recreation. It shall also plan and oversee City programs, and encourage other programs, for the leisure time of the City's residents of all ages.

2-9-2 **ORGANIZATION.** The Board shall consist of five (5) members, all residents of the City, appointed by the Council for overlapping five-year terms. The Board shall choose its Chairperson and Vice Chairperson every two (2) years. Members shall receive such compensation as established by resolution of the Council. Vacancies shall be filled in the same manner as the original appointment.

2-9-3 **MEETINGS.** The Board shall meet on the first Monday of each month at seven o'clock (7:00) p.m.

2-9-4 **DUTIES.** In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board shall have authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts, and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall also be responsible for overseeing recreation programs in Cascade. The Board shall cooperate with the Mayor in the allotment of time of City employees for parks and recreation purposes. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payments will be made by check written by the Clerk for invoices submitted and approved by the Board.

2-9-5 **REPORTS TO COUNCIL.** The Board shall make written reports to the Council of its activities from time to time as it deems advisable or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

2-9-6 **RULES.** The Board shall have the power to make rules and regulations for the use of parks and other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

2-9-7      PENALTIES. Violation of a Board rule which have been approved by the Council and adopted by ordinance may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one day may be appealed to the Board or to the Council for a hearing. The violation may be prosecuted as a misdemeanor if a serious offense.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 10 UTILITY BOARD OF TRUSTEES**

2-10-1	Purpose	2-10-7	Powers and Duties of the Board
2-10-2	Board Established	2-10-8	Control of Funds
2-10-3	Appointment of Trustees	2-10-9	Accounting
2-10-4	Meetings	2-10-10	Discriminatory Rates Illegal
2-10-5	Compensation	2-10-11	Discontinuance of Board
2-10-6	Vacancies		

2-10-1 **PURPOSE.** The purpose of this chapter is to provide for the operation of the municipally owned electric and gas utilities by a board of trustees.

2-10-2 **BOARD ESTABLISHED.** Pursuant to an election held March 25, 1940, the management and control of the municipally owned electric utility were placed in the hands of a board of trustees, and pursuant to an election held May 27, 1966, the Board of Trustees of the Electric Utility and the Board of Trustees of the Gas Utility were consolidated.  
(Code of Iowa, Sec. 388.2)

2-10-3 **APPOINTMENT OF TRUSTEES.** The Mayor shall appoint, subject to the approval of the Council, three (3) persons to serve as trustees for staggered six (6) year terms. No public officer or salaried employee of the City may serve on a utility board. All Trustees shall be bona fide residents of the City and over the age of eighteen (18) years.  
(Code of Iowa, Sec. 388.3)

2-10-4 **MEETINGS.** The Board of Trustees meets on the second Wednesday of each month at five-fifteen (5:15) p.m. at the Cascade City Hall Council Chambers. The public meetings shall be video recorded for broadcast on the Cascade Local Access Channel.

2-10-5 **COMPENSATION.** The Council shall by resolution set the compensation of Board members. Board members not wanting to receive said compensation shall submit a written statement to the City Clerk stating the desire not to be compensated.  
(Code of Iowa, Sec. 388.3)

2-10-6 **VACANCIES.** An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term. (Code of Iowa, Sec 388.3)

2-10-7 **POWERS AND DUTIES OF THE BOARD.** The Board of Trustees may exercise all powers of the City in relation to the City utility, City utilities, or combined utility system it administers, with the following exceptions:  
(Code of Iowa, Sec. 388.4)

1. Taxes, Ordinances and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

(Code of Iowa, Sec. 388.4[1])

2. Property. Title to all property must be in the name of the City but the board has full control of such property subject to limitations imposed by law.

(Code of Iowa, Sec. 388.4[2])

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

(Code of Iowa, Sec. 388.4[3])

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

(Code of Iowa, Sec. 388.4[4])

2-10-8 CONTROL OF FUNDS. The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

(Code of Iowa, Sec. 388.5)

2-10-9 ACCOUNTING. Utility moneys must be held in a separate utility fund, with a separate account or accounts for each utility or combined utility system.

(Code of Iowa, Sec. 388.5)

2-10-10 DISCRIMINATORY RATES ILLEGAL. A utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, Code of Iowa.

(Code of Iowa, Sec. 388.6)

2-10-11 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue a utility board is subject to the approval of the voters of the City, except that a board may be discontinued by resolution of the Council when the City utility, City utilities, or combined utility system it administers is disposed of or leased for a period of over five (5) years.

(Code of Iowa, Sec. 388.2)

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 11 CABLE REGULATORY COMMISSION**

2-11-1	Purpose	2-11-4	Officers and Meetings
2-11-2	Commission Established	2-11-5	Powers and Duties
2-11-3	Term of Office and Compensation		

2-11-1 **PURPOSE.** The Council desires to assure full compliance with its cable franchise, that the franchise be interpreted and applied to the benefit of the City and its residents, that quality and updated services be delivered throughout the City, and that the public interest be protected in all matters relating to the cable services delivery system.

2-11-2 **COMMISSION ESTABLISHED.** The Council hereby establishes a commission to be known as the Cable Regulatory Commission. The Commission shall consist of five (5) members appointed by the Council. In its appointments the Council shall endeavor to develop a commission versed and competent in telecommunication administration, finances and regulation. The Council shall appoint only bona fide residents of the City over the age of eighteen (18) years and shall attempt to give preference to applicants who possess professional or experiential backgrounds in law, finances, administration, public relations or telecommunication technologies. The City Administrator, city employees and anyone who is an owner, shareholder, employee or agent of the City's cable franchise holder or any prospective franchise holder are ineligible to serve as a member of the Commission.

2-11-3 **TERM OF OFFICE AND COMPENSATION.** The term of each member shall be three (3) years with terms expiring each June, except those of the initial appointees, one of whom shall have a one-year term and two appointees shall have two-year terms. If a vacancy occurs before the expiration of a term, the appointment shall be for the unexpired portion of that term. If the Council fails to make an appointment upon the expiration of a term, the incumbent shall continue to serve until an appointment is made. If any member fails to attend at least two-thirds (2/3) of the regularly scheduled Commission meetings in a twelve-month period, the Commission may request the Council to declare that member's seat vacant. Attendance of all members shall be entered in the minutes. Members shall receive such compensation as established by resolution of the Council. Members not wanting to receive said compensation shall submit a written statement to the City Clerk stating the desire not to be compensated.

#### **2-11-4 OFFICERS AND MEETINGS.**

1. In odd-numbered years, the members shall elect a presiding officer from among themselves, and an official secretary. The City Administrator shall be advisor to the Commission and City staff shall perform secretarial and administrative duties for the Commission as requested by the Commission.

2. The members shall meet on the third Wednesday of each month at 5:30 PM. in the Cascade City Hall Council Chambers. The public meetings shall be video recorded for broadcast on the Cascade Local Access Channel. A quorum of three (3) members shall be required for members to conduct their business. All meetings and proceedings of the Commission shall conform with applicable open meeting requirements.

3. The presiding officer of the Commission may call a special meeting of the Commission at his or her sole discretion. Such special meeting shall comply with applicable open meeting requirements.

4. The Commission shall file with the Council a copy of the minutes of each regular and special meeting within ten (10) days after such meeting.

2-11-5 POWERS AND DUTIES. The Commission has the following powers and duties:

1. To keep abreast of developments in cable technologies, services and programming;
2. To become competent in cable regulation, finances and standards of operation;
3. To act through the City Administrator as the local regulatory agent of the cable franchise;
4. To develop policies for the day-to-day regulation and administration of the cable franchise;
5. To encourage cordial relations between cable subscribers and the local cable manager and his or her staff;
6. To develop policies for handling and resolving subscriber complaints which could not be resolved satisfactorily by the cable manager;
7. To monitor the operation of the cable system;
8. To advise the Council regarding rates and possible revocation procedures;
9. To advise the Council on any matter relating to the cable franchise or system;
10. To consult with the City Administrator and the local cable manager on the best updating of the cable system, services and programming, and to advise the Council on expending the updating funds;
11. To advise the City Administrator in all matters relating to the regulation of the cable system including the cable budget;
12. To evaluate its own proceedings and actions and all cable related activities;
13. To submit an annual report to the Council regarding:

A. The state of cable regulation;

B. The state of cable services and technologies; and

C. Any recommendations it may have for the future of cable in the City;

14. To negotiate the terms and conditions of the cable television franchise agreements, said agreements subject to final Council approval. All administrative, personnel, accounting, budgetary and procurement policies of the City shall govern the Commission in all of its operations.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 12 CITY ELECTIONS**

2-12-1	Purpose	2-12-6	Filing, Presumption, Withdrawals,
2-12-2	Nominating Method to be Used		Objections
2-12-3	Nominations by Petition	2-12-7	Persons Elected
2-12-4	Adding Name by Petition	2-12-8	Reserved
2-12-5	Preparation of Petition		

2-12-1 **PURPOSE.** The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-12-2 **NOMINATING METHOD TO BE USED.** All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.  
(Code of Iowa, Sec. 376.3)

2-12-3 **NOMINATIONS BY PETITION.** Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.  
(Code of Iowa, Sec. 45.1)

2-12-4 **ADDING NAME BY PETITION.** The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.  
(Code of Iowa, Sec. 45.2)

2-12-5 **PREPARATION OF PETITION.** Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1. **Name and Residence.** The name and residence (including street and number, if any) of said nominee, and the office to which nominated.
2. **Name on Ballot.** A request that the name of the nominee be printed upon the official ballot for the election.
3. **Eligibility.** A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.
4. **Organization Statement.** A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

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

(Code of Iowa, Sec. 45.5)

2-12-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

2-12-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

2-12-8 RESERVED.

(ECIA Model Code Amended in 2014)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 1 OFFENSES**

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

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

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

1. Engage in fighting or violent behavior or invite or defy another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

(Code of Iowa, Sec. 723.4(1))

2. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

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

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

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

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

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

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

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

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

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

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

3-1-3 PUBLIC MORALS. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in public or in view of the public.

3-1-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed

thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

3. Removal of Snow, Ice and Accumulations. Snow, ice and accumulations shall be removed from sidewalks within 24-hours of the last accumulation. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

(Ord. 30-16, Passed December 12, 2016)

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

### 3-1-5 PUBLIC SAFETY AND HEALTH.

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

(ECIA Model Code Amended in 2014)

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

(ECIA Model Code Amended in 2014)

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

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or

offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, rifle, shotgun, revolver, paintball gun, bomb, pistol, air gun, crossbow, bow and arrow, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive. This section does not apply to law enforcement officers acting in the course of their duties.

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

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

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

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

f. Throwing and Shooting. It is unlawful for a person to throw, launch or propel stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without written consent of the Cascade City Council.

7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible

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

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

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

**(Editor's Note: Please see Title III, Chapter 17, Fireworks, for Ordinance 4-17, regarding the sale of fireworks).**

8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

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

(Code of Iowa, Sec. 718.2)

#### 10. Harassment of City Employees.

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

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

11. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 364.12)

14. Littering Prohibited.

a. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.

b. No person shall discard any litter within the City of Cascade, except as provided and approved by the City of Cascade, by collecting and discarding such litter in approved areas or approved receptacles.

c. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.

d. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.

e. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one’s ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.

f. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste is kept in place in the manner prescribed in this Code.

(ECIA Model Code Amended in 2017)

15. Drug Paraphernalia.

1. Definitions. The term “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. Includes, but is not limited to:

- a. Kits used, intended for use, or designed for use in planning, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- b. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- d. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- f. Diluents and adulterants, such as quinine hydrochloride, mannite, dextrose or lactose used, intended for use or designed for use in cutting controlled substances;
- g. Separating gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- h. Blenders, bowls, containers, spoons, and mixing devices used, intended for use or designed for use in compounding controlled substances;
- i. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
- j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
- k. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injected controlled substances into the human body;
- l. Objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - (i) Metal, wooden acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
  - (ii) Water pipes,
  - (iii) Carburetion tubes and devices
  - (iv) Smoking and carburetion masks
  - (v) Roach clips, meaning objects used to hold burning materials, such as marijuana cigarette, that has become too small or too short to be held in the hand,
  - (vi) Miniature cocaine spoons and cocaine vials,
  - (vii) Chamber pipes,

- (viii) Carburetor pipes,
- (ix) Electric pipes,
- (x) Air-driven pipes,
- (xi) Chillums,
- (xii) Bongs,
- (xiii) Ice pipes or chillers

- A. Statements by an owner or by anyone in control of the object concerning its use;
- B. Prior convictions, if any, of an owner, or anyone in control of the object under any State or Federal law relating to any controlled substance;
- C. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act;
- D. The proximity of the object to controlled substances;
- E. The existence of any residue of controlled substances on the object;
- F. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know intend to use the object to facilitate a violation of the Uniform Controlled Substances Act; the innocence of an owner, or of anyone in control of the object as to direct violation of the Uniform Controlled Substances Act should not prevent a finding that the object is intended for use, or as designed for use as drug paraphernalia;
- G. Instructions, oral or written, provided with the object concerning its use;
- H. Descriptive materials accompanying the object which explain or depict its use;
- I. National and local advertising concerning its use;
- J. The manner in which the object is displayed for sale;
- K. Whether the owner, or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products;
- L. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprises;
- M. The existing and scope of legitimate uses for the object in the community;
- N. Expert testimony concerning its use.

### 3. Prohibited Acts

- A. **Possession of Drug Paraphernalia.** No person shall use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act.
- B. **Manufacture or Delivery of Drug Paraphernalia.** No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal,

inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act.

- C. Advertisement of Drug Paraphernalia. No person shall place or accept for placement in any newspaper, magazine, handbill or other publication, any advertisement, knowing or under circumstances where one reasonably should know that the purpose of the advertisement in whole or in part is to promote the sale of objects designed or intended for use as drug paraphernalia.

### 3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

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

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

(ECIA Model Code Amended in 2014)

5. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

(ECIA Model Code Amended in 2014)

7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.  
(Code of Iowa, Sec. 716.1)

8. Injury to city ambulance or paramedic apparatus. No person shall willfully destroy or injure any ambulance or paramedic unit, equipment or other things used to administer medical care.  
(Code of Iowa, Sec. 716.1)

9. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.  
(Code of Iowa, Sec. 716.1)

10. Injury to roads, railways, and other utilities. No person shall **injure**, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or **cut**, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)  
(ECIA Model Code Amended in 2014)

11. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.  
(Code of Iowa, Sec. 727.8)

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

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 2 NUISANCES**

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

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

1.   **NUISANCES DECLARED.** The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. Nuisances shall include, but not be limited to, those activities and items hereinafter set forth in this section below:

(Code of Iowa, Sec. 657.1)  
(ECIA Model Code Amended in 2017)

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

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

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

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

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

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

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

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

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

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

**(This is not an exclusive or exhaustive list of possible nuisances.)**

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, Sec. 657.2(6))

g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.

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

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

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

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

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

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

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

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

l. Weeds, brush. Any condition relating to weeds which is described as a nuisance in the Cascade Municipal Code of Ordinances or under state law. Dense growth of all weeds, grasses, vines, brush, or other vegetation including grass over 6" in height in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

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

(ECIA Model Code Amended in 2017)

(Ord 7-18, July 9, 2018)

m. Trees infected with Dutch elm disease.

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.2)

q. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the County Public Health Department and junk or salvage materials property stored in accordance with the Cascade Municipal Code;

r. Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.

t. Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basis not maintained in an appropriate manner so as to allow its proper function.

u. Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.

v. Conditions which are conducive to the harborage or breeding of vermin.

w. Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.

x. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function property or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the County Department of Health regulation.

y. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

z. Dangerous buildings or structures.

aa. Abandoned buildings.

bb. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.

cc. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Cascade Municipal Code of Ordinances.

dd. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Cascade Municipal Code of Ordinances.

ee. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, provided, however, the City Council may designate up to three weekends each year to allow City residents to burn leaves and tree trimmings in accordance with the City's Open Burning Policy. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.

ff. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 48 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Cascade Municipal Code of Ordinances.

gg. The parking of motor vehicles on private property without the consent of the property owner or responsible party.

hh. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.

ii. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.

jj. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.

kk. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.

ll. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 7:00 a.m. and 9:00 p.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.

mm. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.

nn. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.

oo. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 8 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 8 inches.

pp. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.

qq. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.

rr. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.

ss. Pools and ponds containing stagnant water.

tt. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.

uu. Rusty, deteriorated, dilapidated or unusable play equipment visible from any adjoining property.

vv. Dilapidated dwelling units exhibiting peeling paint, untreated wood, broken gutters, broken windows, dry rot, missing banisters, railings and spindles, broken doors and the like creating an eyesore and offending members of the public.

(ECIA Model Code Amended in 2017)

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 657.3)

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

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

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

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

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

3. The numbering of buildings.

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

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

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

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.

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

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

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

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

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other prohibited condition exists, the Mayor or officer may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

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

(ECIA Model Code Amended in 2017)

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

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

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

2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.

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

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

(Code of Iowa, Sec. 364.12(3)(h))  
(ECIA Model Code Amended in 2014)

**3-2-7 REQUEST FOR HEARING AND APPEAL.** Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer/employee ordering the abatement within seven (7) working days of the receipt of the notice or the right to a hearing shall be waived. If an appeal is not filed as set forth herein, it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. The property owner may appeal this decision by filing written notice with the City Clerk within five (5) calendar days of the decision. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

(ECIA Model Code Amended in 2017)

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

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

**3-2-9 ABATEMENT BY MUNICIPALITY.** If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

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

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)

(ECIA Model Code Amended in 2017)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 3 TRAFFIC CODE**

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

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

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

#### **TRAFFIC CONTROL DEVICES**

- 3-3-7 Authority to Install Traffic-Control Devices
- 3-3-8 Chief of Police to Designate Crosswalks, Establish, and Mark Traffic Lanes
- 3-3-9 Play Streets

#### **SPEED REGULATIONS**

- 3-3-10 Changing State Speed Limits in Certain Zones

#### **TURNING MOVEMENTS**

- 3-3-11 Turning Markers, Buttons and Signs
- 3-3-12 Authority to Place Restricted Turn Signs
- 3-3-13 Obedience to No-Turn Signs
- 3-3-14 "U" Turns

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

- 3-3-15 Authority to Designate One-Way Streets and Alleys
- 3-3-16 One-Way Streets and Alleys
- 3-3-17 Authority to Restrict Direction of Movement on Streets During Certain Periods

#### **SPECIAL STOPS REQUIRED**

- 3-3-18 Through Highways
- 3-3-19 Authority to Erect Stop Signs
- 3-3-20 Stops at Intersecting Through Highways and Other Intersections
- 3-3-21 Stop When Traffic Is Obstructed
- 3-3-22 School Stops
- 3-3-22.1 Stop Before Crossing Sidewalk
- 3-3-22.2 Yield to Pedestrians
- PEDESTRIANS' RIGHTS AND DUTIES**
- 3-3-23 Pedestrian Crossing
- 3-3-24 Pedestrians on Left
- 3-3-24.1 Hitchhiking

#### **METHOD OF PARKING**

- 3-3-25 Standing or Parking Close To Curb
- 3-3-26 Standing or Parking on the Left-Hand Side of One-Way Streets
- 3-3-27 Signs or Markings Indicating Angle Parking
- 3-3-28 Obedience to Angle Parking Signs or Markings

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

- 3-3-29 Stopping, Standing or Parking Prohibited in Specified Places
- 3-3-30 Authority to Paint Curbs and Erect Signs Prohibiting Standing or Parking
- 3-3-31 Authority to Impound Vehicles

#### **STOPPING, STANDING OR PARKING**

- 3-3-32 Parking Signs Required
- 3-3-33 Parking During Snow Emergency
- 3-3-34 All-Night Parking Prohibited
- 3-3-35 Truck Parking Limited

#### **MISCELLANEOUS DRIVING RULES**

- 3-3-36 Vehicles Not to be Driven on Sidewalks
- 3-3-37 Clinging to Vehicles
- 3-3-38 Parking for Certain Purposes

- 3-3-39 Prohibited Driving Through Funeral or Other Procession
- 3-3-40 Drivers in a Procession
- 3-3-41 Funeral Processions to be Identified
- 3-3-42 Load Restrictions Upon Vehicles Using Certain Streets
- 3-3-43 Truck Routes
- 3-3-44 Vehicular Noise
- 3-3-45 Engine and Compression Brakes

#### BICYCLE REGULATIONS

- 3-3-46 Definitions
- 3-3-47 Traffic Code Applies to Persons Riding Bicycles
- 3-3-48 Riding on Bicycles
- 3-3-49 Riding on Roadways and Bicycle Paths
- 3-3-50 Speed
- 3-3-51 Emerging from Alley or Driveway
- 3-3-52 Carrying Articles
- 3-3-53 Parking
- 3-3-54 Riding on Sidewalks
- 3-3-55 Lamps and Other Equipment on Bicycles
- 3-3-56 Towing and Improper Riding
- 3-3-57 Special Penalty
- 3-3-58 License Required
- 3-3-59 License Plates or Decals
- 3-3-60 Maintenance of License Records

#### SNOWMOBILES

- 3-3-61 Snowmobile Definitions
- 3-3-62 Permitted Areas of Operation
- 3-3-63 Regulations
- 3-3-64 Equipment Required
- 3-3-65 Unattended Vehicles

- 3-3-66 Restriction of Operation
- 3-3-66A Negligence
- 3-3-66B Accident Report
- 3-3-67 Traffic Regulation
- OFF-ROAD VEHICLES
- 3-3-68 Purpose
- 3-3-69 Definitions
- 3-3-70 General Regulations
- 3-3-71 Places of Operation
- 3-3-72 Negligence
- 3-3-73 Accident Reports
- 3-3-74 Equipment
- 3-3-75 Unlawful Operation
- 3-3-76 Parking
- 3-3-77 ATVs and UTVs Registered
- 3-3-78 Suspension of Permit
- 3-3-79 Penalty

#### GOLF CARTS

- 3-3-80 Purpose
- 3-3-81 Definitions
- 3-3-82 General Regulations
- 3-3-83 Places of Operation
- 3-3-84 Hours of Operation
- 3-3-85 Equipment
- 3-3-86 Unlawful Operation
- 3-3-87 Speed
- 3-3-88 Parking
- 3-3-89 Golf Carts Registered
- 3-3-90 Suspension of Permit
- 3-3-91 Penalty

#### PENALTIES AND PROCEDURES

- 3-3-92 Notice of Fine Placed on Illegally Parked Vehicle
- 3-3-93 Presumption in Reference to Illegal Parking
- 3-3-94 Local Parking Fines
- 3-3-95 Failure to Pay Parking Citations

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

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

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

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

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

4. "Stop or stopping", when prohibited, means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

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

First Avenue from Johnson Street (Highway 136) to Pierce Street S.W.

5a. "School district" means the territory contiguous to and including a highway for a distance of two hundred feet in either direction from a school house.

6. "Residential districts" means all areas of the City not included in business districts.  
(Code of Iowa, Sec. 321.1)

7. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

3-3-3 **TRAFFIC ACCIDENT REPORTS.** The driver of a vehicle involved in an accident within the limits of this City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the Chief of Police. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

The City shall maintain a suitable system of filing traffic accident reports.  
(Code of Iowa, Sec. 321.266)

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

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

3-3-5 **AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.** Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by

the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

1. Peace Officer's Authority. Any peace officer is authorized to stop any vehicle to require exhibition of the driver's motor vehicle license, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle.

(Code of Iowa, Sec. 321.492)

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

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|-----|----------|--|
| 1.  | 321.17   | Operating non-registered vehicle.  |
| 2.  | 321.20B  | Failure to prove security against liability.                               |
| 3.  | 321.32   | Registration card, carried and exhibited.                                  |
| 4.  | 321.34   | Registration violation.  |
| 5.  | 321.37   | Failure to display registration plate.                                     |
| 6.  | 321.38   | Failure to maintain registration plate.                                    |
| 7.  | 321.45   | Failure to transfer title.   |
| 8.  | 321.98   | Operation without registration.  |
| 9.  | 321.99   | Improper use of registration.  |
| 10. | 321. 174 | Failure to have valid a license or permit while operating a motor vehicle. |
| 11. | 321.174A | Operation of motor vehicle with expired license.                           |

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| 12. | 321.180  | Violations of instruction permit limitations.   |
| 13. | 321.180B | Violation of graduated driver's license   |
| 14. | 321.193  | Violation of conditions of restricted license.  |
| 15. | 321.194  | Violation of conditions of minor's school license.  |
| 16. | 321.216  | Unlawful use of license.  |
| 17. | 321.216B | Misuse of license of ID card to acquire alcohol   |
| 18. | 321.216C | Misuse of license or ID card to acquire tobacco   |
| 19. | 321.218  | Driving without a valid license (as to simple misdemeanor offenses only).                                   |
| 20. | 321.219  | Permitting unauthorized minor to drive.   |
| 21. | 321.220  | Permitting unauthorized person to drive.  |
| 22. | 321.229  | Failure to comply with lawful order of peace officer.   |
| 23. | 321.231  | Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals). |
| 24. | 321.232  | Radar jamming devices.  |
| 25. | 321.234  | Failure to observe seating requirements.  |
| 26. | 321.234A | ATV Violation   |
| 27. | 321.236  | (Parking) Violation of local ordinance (not a state offense).   |
| 28. | 321.247  | Unlawful golf cart operation  |
| 29. | 321.256  | Failure to obey traffic control device.   |
| 30. | 321.257  | Failure to obey or yield to pedestrian or to official traffic control signal.                               |
| 31. | 321.260  | Unlawful possession of, or interference with traffic control device.  |
| 32. | 321.264  | Striking unattended vehicle.  |

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| 33. | 321.265  | Striking fixtures upon a highway.                           |
| 34. | 321.275  | Motorcycle and motorized bicycles violations.               |
| 35. | 321.277  | Reckless driving.   |
| 36. | 321.277A | Careless Driving  |
| 37. | 321.278  | Drag racing prohibited.                                     |
| 38. | 321.284  | Open Container driver >21.                                  |
| 39. | 321.284A | Open Container passenger >21.                               |
| 40. | 321.285  | Speed restrictions.   |
| 41. | 321.286  | Truck speed limits (highway).                               |
| 42. | 321.287  | Bus speed limits (highway).                                 |
| 43. | 321.288  | Failure to maintain control.                                |
| 44. | 321.294  | Failure to maintain minimum speed when directed by officer. |
| 45. | 321.295  | Excessive speed on bridge.                                  |
| 46. | 321.297  | Driving on wrong side of two-way highway.                   |
| 47. | 321.298  | Failure to yield half of roadway upon meeting vehicle.      |
| 48. | 321.299  | Passing on wrong side.                                      |
| 49. | 321.302  | Improper overtaking on the right                            |
| 50. | 321.303  | Unsafe passing.   |
| 51. | 321.304  | Unlawful passing.   |
| 52. | 321.305  | Violating one-way traffic designation.                      |
| 53. | 321.306  | Improper use of lanes.                                      |
| 54. | 321.307  | Following too closely.                                      |
| 55. | 321.308  | Following too closely (trucks and towing vehicles).         |

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| 56. | 321.309 | Failure to use approved drawbar.                    |
| 57. | 321.310 | Unlawful towing of four-wheeled trailer.            |
| 58. | 321.311 | Turning from improper lane.                         |
| 59. | 321.312 | Making U-turn on curve or hill.                     |
| 60. | 321.313 | Unsafe starting of a stopped vehicle.               |
| 61. | 321.314 | Unsafe turn or failure to give signal.              |
| 62. | 321.315 | Failure to give continuous turn signal.             |
| 63. | 321.316 | Failure to signal stop or rapid deceleration.       |
| 64. | 321.317 | Signal light requirements; see equipment violation. |
| 65. | 321.318 | Incorrect hand signal.                              |
| 66. | 321.319 | Failure to yield to vehicle on right.               |
| 67. | 321.320 | Failure to yield upon left turn.                    |
| 68. | 321.321 | Failure to yield upon entering through highway.     |
| 69. | 321.322 | Failure to obey stop or yield sign.                 |
| 70. | 321.323 | Unsafe backing on highway.                          |
| 71. | 321.324 | Failure to yield to emergency vehicle.              |
| 72. | 321.325 | Pedestrian disobeying traffic control signal.       |
| 73. | 321.326 | Pedestrian walking on wrong side of highway.        |
| 74. | 321.327 | Pedestrian right-of-way.                            |
| 75. | 321.328 | Pedestrian failing to use crosswalk.                |
| 76. | 321.329 | Vehicle failing to yield to pedestrian.             |
| 77. | 321.331 | Soliciting ride from within roadway.                |
| 78. | 321.332 | Unlawful use of white cane.                         |

79.	321.333	Failure to yield to blind person.
80.	321.340	Driving in or through safety zone.
81.	321.353	Unsafe entry into sidewalk or roadway.
82.	321.354	Stopping on traveled part of highway.
83.	321.358	Stopping, standing, or parking where prohibited.
84.	321.360	Prohibited parking in front of certain buildings.
85.	321.361	Parking too far from curb/angular parking.
86.	321.362	Parking without stopping engine and setting brake.
87.	321.363	Driving with obstructed view or control.
88.	321.365	Coasting upon downgrade.
89.	321.366	Improper use of median, curb, or controlled access facility.
90.	321.367	Failure to maintain distance fire-fighting vehicle.
91.	321.368	Crossing unprotected fire hose.
92.	321.369	Putting debris on highway/roadway.
93.	321.370	Removing injurious material.
94.	321.371	Clearing up wrecks.
95.	321.372	School bus provisions.
96.	321.375	Unlawful passing of school bus
97.	321.377	Excessive speed of school bus.
98.	321.381	Driving or towing unsafe vehicle.
99.	321.382	Operating underpowered vehicle.
100.	321.383	Failure to display reflective device on slow-moving vehicles.
101.	321.384	Failure to use headlamps when required.

102.	321.385	Insufficient number of headlamps.
103.	321.386	Insufficient number of headlamps-motorcycles and motorized bicycles.
104.	321.387	Improper rear lamp.
105.	321.388	Improper registration plate lamp.
106.	321.389	Improper rear reflector.
107.	321.390	Reflector requirements.
108.	321.391	Improper type of reflector.
109.	321.392	Improper clearance lighting on truck or trailer.
110.	321.393	Lighting device color and mounting.
111.	321.394	No lamp or flag on rear-projecting load.
112.	321.395	Parking on certain roadways without parking lights.
113.	321.397	Improper light on bicycle.
114.	321.398	Improper light on other vehicle.
115.	321.402	Improper use of spotlight.
116.	321.403	Improper use of auxiliary driving lights.
117.	321.404	Improper brake light.
118.	321.408	Back-up lamps.
119.	321.409	Improperly adjusted headlamps.
120.	321.415	Failure to dim.
121.	321.419	Improper headlighting when night driving.
122.	321.420	Excessive number of driving lights.
123.	321.422	Lights of improper color-front or rear.
124.	321.423	Special light/signal provision.

125.	321.423	(2) Unauthorized use of emergency vehicle lighting equipment
126.	321.423	(6) Failure to use flashing signal on slow moving vehicle
127.	321.430	Defective braking equipment.
128.	321.431	Brake performance ability.
129.	321.432	Defective audible warning device.
130.	321.433	Unauthorized use of emergency audible warning devices on motor vehicle.
131.	321.434	Use of siren or whistle on bicycle.
132.	321.436	Defective or unauthorized muffler system.
133.	321.437	Mirrors.
134.	321.438	(1) Windshield & window – obstructed vision
135.	321.438	(2) Dark window/windshield
136.	321.438	(3) Windshield and window requirements
137.	321.439	Defective windshield wiper.
138.	321.440	Defective tires.
139.	321.441	Unauthorized use of metal tire or track.
140.	321.442	Unauthorized use of metal projection on wheels.
141.	321.444	Failure to use safety glass.
142.	321.445	Failure to maintain or use safety belts.
143.	321.446	Failure to secure child.
144.	321.449	Special regulations.
145.	321.450	Hazardous materials.
146.	321.454	Width and length violations.

- |      |         |   |
|------|---------|---|
| 147. | 321.455 | Excessive side projection of load – passenger vehicle.                      |
| 148. | 321.456 | Excessive height.   |
| 149. | 321.457 | Excessive length.   |
| 150. | 321.458 | Excessive projection from front of vehicle.                                 |
| 151. | 321.459 | Excessive weight – dual axels (each over 2000 lb. over).                    |
| 152. | 321.460 | Spilling loads on highways.   |
| 153. | 321.461 | Excessive tow-bar length.   |
| 154. | 321.462 | Failure to use required towing equipment.                                   |
| 155. | 321.463 | Maximum gross weight.   |
| 156. | 321.466 | Gross weight in excess of registered gross weight (for each 2000 lb. over). |

(Ord. 3-17, Passed March 27, 2017)

## TRAFFIC CONTROL DEVICES

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

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

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

Official traffic controls. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

1. Intersection of First Avenue and Johnson Street.  
(Code of Iowa, Sec. 321.255 and 321.256)

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

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

**3-3-9 PLAY STREETS.** The Chief of Police has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

**SPEED REGULATIONS**

**3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES.** It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

- a. On First Avenue East from Johnson Street (Highway 136) to Taylor Street;
- b. On Second Avenue from Monroe Street to Fox Street;
- c. On First Avenue West from Johnson Street (Highway 136) to McKinley Street.
- d. On Johnson Street (Highway 136) from First Avenue to the north City limits.
- e. On Industrial Street SE from 1st Avenue East to 2nd Avenue SE.
- f. On 1st Avenue East from Johnson Street (Highway 136) to Van Buren Street NE.

- g. On 1st Avenue West from Johnson Street (Highway 136) to Garfield Street NW.  
(Ord. 25-16, Passed November 28, 2016)

2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

- a. On Johnson Street (Highway 136) from First Avenue to the south edge of the community park.

3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

- a. On First Avenue East from Taylor Street to Madison Street;
- b. On First Avenue West from Johnson Street (Highway 136) to the west city limits;
- c. On McKinley Street SW from First Avenue to the south city limits;
- d. On south bound lane of Tyler Street NE from the Tyler Street Box Culvert to the north city limits at the intersection of the Highway 151 right-of-way.
- e. On Fox Street SE from 1st Avenue East to 2nd Avenue SE.
- f. On First Avenue East from Van Buren St NE to Jack Oak Dr. SE.
- g. On First Avenue West from Garfield Street NW to McKinley St.  
(Ord. 26-16, Passed November 28, 2016)

- h. On First Avenue East from Madison Street to First Avenue's dead end at the East City limits.  
(Ord. 27-16, Passed November 28, 2016)

4. Special 40 Mph Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.

- a. On Industrial Park Road from 1st Avenue East, north 1,600 feet.
- b. On Monroe Street NE from 1st Avenue East to Monroe Street's dead end at the Highway 151 right-of-way.

5. Special 45 Mph Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

- a. On Second Avenue SE from Fox Street SE to the east City limits.
- b. On Johnson Street SW from 4th Avenue SW to the Cascade Family Medical Center, 805 Johnson Street SW.

c. On the west bound lane of 2nd Avenue SE from Jack Oak Drive SE to Fox Street SE.

6. Special 55 Mph Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.

a. On Johnson Street SW from the Cascade Family Medical Center to the south City limits.

7. Speed Regulations in Defined Districts and Areas.

a. Business District: A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this chapter, is unlawful.

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

b. Residence or School District: A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this chapter, is unlawful.

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

c. Suburban District: A speed in excess of forty-five (45) miles per hour in any suburban district, unless specifically designated otherwise in this chapter, is unlawful.

(Code of Iowa, Sec. 321.285 [4])

d. Cemeteries and Parking Lots: A speed in excess of fifteen (15) miles per hour in any public cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

## TURNING MOVEMENTS

3-3-11 TURNING MARKERS, BUTTONS AND SIGNS. The Chief of Police may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-12 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The Chief of Police is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-13 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-14 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

#### ONE-WAY STREETS AND ALLEYS

3-3-15 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the Chief of Police shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-16 ONE-WAY STREETS AND ALLEYS. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction:

1. Lincoln Street is northbound only from First Avenue to the alley between First Avenue W. and Second Avenue N.W.
2. Lincoln Street is southbound only from First Avenue W. to Second Avenue S.W.
3. Alley south of First Avenue is eastbound only from Lincoln Street to Buchanan Street.
4. Buchanan Street is southbound only from First Avenue W. to Second Avenue S.W.
5. Fillmore Street is southbound only from First Avenue E. to Second Avenue S.E..
6. Second Avenue S.E. is eastbound only from Fillmore Street to Taylor Street.
7. Polk Street S.E. is southbound only from First Avenue S.E. to Second Avenue S.E.

3-3-17 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Chief of Police is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Chief of Police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

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

The following streets may have variable laning or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

#### **SPECIAL STOPS REQUIRED**

3-3-18 **THROUGH HIGHWAYS.** Streets or portions of streets described below are declared to be through highways:

(Code of Iowa, Sec. 321.345 and 321.350)

1. First Avenue (Highway 151) from the east City limits to the west City limits;
2. Johnson Street (Highway 136) from the north City limits to the south City limits.

3-3-19 **AUTHORITY TO ERECT STOP SIGNS.** Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

3-3-20 **STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS.** At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

3-3-21 **STOP WHEN TRAFFIC IS OBSTRUCTED.** Notwithstanding any traffic-control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

3-3-22 **SCHOOL STOPS.** When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

3-3-22.1 **STOP BEFORE CROSSING SIDEWALK.** The driver of a vehicle emerging from a private roadway, alley, driveway or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right of way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

3-3-22.2 **YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

## PEDESTRIANS' RIGHTS AND DUTIES

3-3-23 PEDESTRIAN CROSSING. Pedestrians crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles on the roadway.

(Code of Iowa, Sec. 321.328)

3-3-24 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

3-3-24.1 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

## METHOD OF PARKING

3-3-25 STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

3-3-26 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

3-3-28 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand

a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

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

3-3-29 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk. Within (30) thirty feet on either side.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted. Only emergency personnel and authorized vehicles on fire station property.
8. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
9. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
10. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
11. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary, in obedience to traffic regulations or traffic signs, or signals of a police officer.
12. At any place where official signs or curb markings prohibit stopping, standing or parking.
13. Within ten (10) feet of the crosswalk at all intersections within the City.

14. In an alley under any fire escape at any time.
15. On the following specified streets or alleys:
  - a. Second Avenue S.W., on both sides from its intersection with Buchanan Street to a point fifteen (15) feet both east and west of such intersection;
  - b. Buchanan Street, on both sides from its intersection with Second Avenue S.W. to a point fifteen (15) feet south of such intersection;
  - c. Alley between Buchanan Street and Pierce Street, on the south side;
  - d. First Avenue (Highway 151), on both sides from Cleveland Street to Johnson Street (Highway 136);
  - e. Johnson Street (Highway 136), on both sides from First Avenue W. (Highway 151) to the south corporate line;
  - f. Madison Street S.E., on the east side, from First Avenue East (Highway 151) to Second Avenue S.E., Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m.;
  - g. Second Avenue N.W. on the south side, from Johnson Street (Highway 136) to Lincoln Street N.W.;
  - h. Nixon Street N.E. on both sides from the point it dead ends, southerly for a distance of 50-feet;
  - i. North side of Fourth Avenue N.W. from its beginning at the Cascade High School to its intersection with Johnson Street N.W. (Highway 136).
  - j. Sixth Avenue NW, on its north side, from Johnson Street NW to Cork Drive NW.
  - k. Third Avenue SW, on its north side, from Johnson Street SW to Grant Street SW.
  - l. Garfield Street SW, a 45 foot section on its east side, beginning at a point 90 feet north of the Garfield Street SW and 4th Avenue SW right-of-way line and ending 130 feet north of the Garfield Street SW and 4th Avenue SW right-of-way line on Tuesdays and Thursdays.
  - m. Second Avenue SE on both sides from Monroe Street SE to Madison St SE, on the north side from Madison Street SE to Adams Street SE, and the sought side from Adams Street SE to Fox Street SE.
  - n. Third Avenue SW, on the north side of the street, from Hayes Street SW, east 40 feet.
  - o. Hayes Street SW, on the west side of the street, from 3rd Avenue SW, south 40 feet.

p. On the west side of Harrison Street SE from 1<sup>st</sup> Avenue East to 4<sup>th</sup> Avenue SE and on the North side of 2<sup>nd</sup> Avenue SE from Harrison Street SE to Monroe Street NE during the hours of 7:30 AM and 3:30 PM while school is in session.

p.1 On the west side of Tyler Street SE from 2<sup>nd</sup> Ave SE to 3<sup>rd</sup> Ave SE during the hours of 7:30AM and 3:30PM while school is in session.

(Ord. 10-18, Passed December 10, 2018)

q. 4th Avenue NW on both sides, beginning at Johnson Street NW and ending at a distance of 50' east of the R.O.W. line from Johnson St NW.

(Ord. 44-13, Passed November 25, 2013)

r. Ten Minute Parking Zone. No person shall park a vehicle for more than ten (10) minutes in the following 10 minute parking zone(s): In front of the Cascade Public Library, 301 1st Avenue West between the hours of 9:00 AM and 10:00 PM seven days per week.

s. Parking Limited to Two Hours. It is unlawful to park any vehicle for a continuous period of more than two (2) hours between 7:00am and 5:00pm on any day except Sunday and holidays upon the following street: First Avenue from Pierce Street to Johnson Street (Highway 136).

3-3-30 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the Chief of Police may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

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

3-3-31 AUTHORITY TO IMPOUND VEHICLES. Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.

3. When any vehicle is left parked upon a street, alley or public property for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.

4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

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

## STOPPING, STANDING OR PARKING

3-3-32 **PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

3-3-33 **PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. Vehicles parked on the street or alley during a snow emergency are subject to tow without notice to the owner and at the owners' expense. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the twenty four hour period after cessation of the storm except as above provided upon streets which have been fully opened.

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

(Code of Iowa, Sec. 321.236)

1. **Alternate Side Parking.** For the purpose of facilitating the plowing and removal of snow from the streets during winter months, the following parking restrictions shall be imposed when announced to the public by the City of Cascade via news media the prior day:

a. No vehicle shall be parked on the side of the street where buildings bear odd numbers on odd numbered days of the month between the hours six o'clock (6:00) a.m. and six o'clock (6:00) p.m. the same day.

b. No vehicle shall be parked on the side of the street where buildings bear even numbers on even numbered days of the month between the hours of six o'clock (6:00) a.m. and six o'clock (6:00) p.m. the same day.

c. On street parking is prohibited in the Downtown Business District during a snow emergency until such area has been cleaned of snow. The Downtown Business District is First Avenue from Fillmore Street to Johnson Street; Pierce Street from 1st Avenue W. to 2nd Avenue S.W.; Buchanan Street from the alley between 1st Avenue W. and 2nd Avenue N.W. to 2nd Avenue S.W.; and Lincoln Street from 2nd Avenue N.W. to 2nd Avenue S.W.

3-3-34 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-35 TRUCK PARKING LIMITED. Trucks licensed for five tons or more shall not be parked at the following locations on the streets named:

1. Business District. No person shall park a truck weighing five (5) tons or more, loaded or empty, on First Avenue from Fillmore Street to Johnson Street.

2. Residential Districts. No motor truck, semi-trailer, trailer, special mobile equipment, truck or van with a one ton or heavier chassis shall be parked or permitted to stand in front of any residential property or lots. However, such parking or standing is permitted on a temporary basis for loading or unloading of said vehicle or, if a service vehicle, while services are being performed at such residence or for the City.

3. Noise. No such vehicle shall be left standing or parked upon any street, alley, public parking lot, or drive of any service station between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

4. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

#### MISCELLANEOUS DRIVING RULES

3-3-36 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-37 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster,

roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

3-3-38 **PARKING FOR CERTAIN PURPOSES PROHIBITED.** No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.
5. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.

3-3-39 **DRIVING THROUGH FUNERAL OR OTHER PROCESSION.** No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-40 **DRIVERS IN A PROCESSION.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-41 **FUNERAL PROCESSIONS TO BE IDENTIFIED.** A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

3-3-42 **LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other:

Second Avenue SE from Monroe Street to Washington Street SE (10 ton limit)  
(Ord 11-19, Passed 9-23-19)

3-3-43 **TRUCK ROUTES.**

1. Every motor vehicle licensed weighing ten (10) tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:

a. Fox Street S.E., from First Ave S.E. to Second Avenue S.E.;

b. Second Avenue S.E., from Fox Street S.E., to the East City limits. (Ord 12-19, Sept 23, 2019)

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

4. Restricted Street. Second Avenue S.E. from Monroe Street to Washington Street is hereby designated as a restricted street and such street shall be restricted to automobiles and pickup trucks. Any other vehicle is prohibited except for local pickup and delivery on said street.

#### 3-3-44 VEHICULAR NOISE.

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

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

#### 3-3-45 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the corporate city limits of Cascade, Iowa, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger.

2. Signs stating "ENGINE BRAKE ORDINANCE ENFORCED" shall be installed at locations at the entry points to the City of Cascade and at any other areas deemed appropriate throughout the City of Cascade.

3. Emergency vehicles shall be exempt from the provisions of this ordinance.  
(Ord. 10-15, Passed November 23, 2015)

#### BICYCLE REGULATIONS

3-3-46 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean either of the following:

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

b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)

(ECIA Model Code Amended in 2008)

3-3-47 **TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES.** Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-48 **RIDING ON BICYCLES.** A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

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

3-3-49 **RIDING ON ROADWAYS AND BICYCLE PATHS.** Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

3-3-50 **SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-51 **EMERGING FROM ALLEY OR DRIVEWAY.** The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-52 **CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

3-3-53 **PARKING.** Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-54 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

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

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

3-3-55 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 300 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 300 feet to the rear may be used in addition to the red reflector.

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

3-3-56 TOWING AND IMPROPER RIDING.

1. Towing. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

2. 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 operator or others.

3-3-57 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

(Ordinance 52-04, 2-9-04)

## SNOWMOBILES

3-3-61 SNOWMOBILE DEFINITIONS.

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

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

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

3-3-62 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate in the City as follows:

The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

1. Streets. Snowmobiles may be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the council.

2. Exceptions. Snowmobiles may be operated on prohibited streets only under emergencies.

3-3-63 REGULATIONS. No person shall operate a snowmobile within the city unless the person is at least eighteen (18) years of age, possesses a valid driver's license and possesses a City of Cascade permit for the operation of a snowmobile within the city in accordance of this chapter.

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

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

2. On public school grounds, park property, playgrounds, or any city owned property without express permission to do so by the proper public authority.

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

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

5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City.

7. No person shall operate a snowmobile in the City from twelve o'clock (12) a.m. to eight o'clock (8:00) a.m., except for the emergency situations.

8. No snowmobile shall carry more passengers than which the snowmobile is designed.

9. No cargo, materials, supplies, or other items may be transported on the snowmobile without being properly restrained.

10. No snowmobile shall be operated on any city street at a speed in excess of twenty five (25) miles per hour.

3-3-64 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

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

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

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

A violation is a simple misdemeanor punishable as a scheduled fine under Iowa Code Section 805.8B.

3-3-65 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-66 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-66A NEGLIGENCE. The owner and operator of a snowmobile is liable for any injury or damage occasioned by the negligent operation of the snowmobile.

3-3-66B ACCIDENT REPORTS. Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer as required under Iowa Code Sections 321G.10 and 321.266.

3-3-67 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

(ORD 11-17, 9-11-17)

#### OFF-ROAD VEHICLES

3-3-68 PURPOSE. The purpose of this chapter is to permit the operation of all-terrain vehicles ("ATVs") and off-road utility vehicles/utility terrain vehicles ("UTVs") on certain streets in the City. This chapter applies whenever an ATV or UTV is operated on any street or alley of the City of Cascade, Iowa.

### 3-3-69 DEFINITIONS.

1. “All-terrain vehicle” or “ATV” is defined as a motorized vehicle with not less than three and not more than six nonhighway tires that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred pounds (1,200) and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. “All-terrain vehicle” includes off-road motorcycles.

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

2. “Off-road utility vehicle” or “utility terrain vehicle” or “UTV” is defined as a motorized vehicle with not less than four and not more than eight nonhighway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

a. “Off-road utility vehicle—type 1” is defined as an off-road utility vehicle with a total dry weight of one thousand two hundred (1,200) pounds or less and a width of fifty inches or less;

b. “Off-road utility vehicle—type 2” is defined as an off-road utility vehicle, other than off-road utility vehicle—type 1, with a total dry weight of two thousand (2,000) pounds or less, and a width of sixty-five (65) inches or less;

c. “Off-road utility vehicle—type 3” is defined as an off-road utility vehicle with a total dry weight of more than two thousand (2,000) pounds or a width of more than sixty-five (65) inches, or both.

(Code of Iowa, Sec. 321I.1[17])

### 3-3-70 GENERAL REGULATIONS.

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

(Code of Iowa, Ch. 321I)

2. No person shall operate an ATV or UTV within the City unless the person is at least eighteen (18) years of age, possesses a valid driver’s license.

3-3-71 PLACES OF OPERATION. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on all City streets unless prohibited by this Section. ATVs and UTVs may stop at service stations or convenience stores along any permitted street.

2. Prohibited Streets. ATVs and UTVs shall not be operated upon any City street which is a primary road extension through the City. However, an ATV/UTV may cross such a primary road extension. Primary road extensions shall include all of Highway 136.

3. Exceptions to Prohibited Streets. The City of Cascade, a political subdivision can legally operate an ATV/UTV on prohibited streets for the purpose of construction or maintenance per State Code 321.234A.

3-3-72 NEGLIGENCE. The owner and operator of an ATV or UTV are liable for any injury or damage occasioned by the negligent operation of the ATV or UTV.

(Code of Iowa, Sec. 321I.19)

3-3-73 ACCIDENT REPORTS. Whenever an ATV or UTV is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer as required under Iowa Code Sections 321I.11 and 321.266.

(Code of Iowa, Sec. 321I.11)

3-3-74 EQUIPMENT. ATVs and UTVs operated upon City streets shall be equipped with at least the following:

1. Adequate brakes;

(Code of Iowa, Sec. 321I.13)

2. Headlights;

3. Taillights;

4. Rear mirrors; or

5. Side mirrors;

6. Safety belts (UTVs only); and

7. Muffler system limiting engine noise to not more than eighty-six (86) decibels.

(Code of Iowa, Sec. 321I.12)

A violation of subsections 3 and 9 is a simple misdemeanor punishable as a scheduled fine under Iowa Code Section 805.8B.

3-3-75 UNLAWFUL OPERATION.

1. No ATVs or UTVs shall be operated or parked upon City sidewalks, trails, City parks, or other City land.

2. No ATVs or UTVs shall be operated on private property without the express consent of the owner.

3. No ATV or UTV shall be operated while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.

(Code of Iowa, Sec. 321I.14[1c])

4. No person shall operate an ATV or UTV in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to the same.

(Code of Iowa, Sec. 321I.14[1b])

5. No ATV or UTV shall be operated in violation of the traffic laws of the City of Cascade and the State of Iowa.

6. No ATV or UTV shall carry more passengers than which the ATV or UTV is designed.

7. No person shall ride in a UTV unless seated in a designated seat and secured with a safety belt.

8. No seat shall be used by more than one person at a time.

9. No cargo, materials, supplies, or other items may be transported on the ATV or UTV without being properly restrained.

10. No owner shall permit a person under the age of eighteen (18) to operate an ATV or UTV.

11. No ATV or UTV shall be operated without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred (500) feet ahead.

(Code of Iowa, Sec. 321I.14[1d])

12. No person shall leave an ATV unattended on public property while the motor is running or the keys are in the ignition switch.

13. No person shall operate an ATV or UTV on any trail unless the trail is designated as open for operation of that vehicle.

14. An ATV shall only have one person riding, which shall be the operator.

15. Proof of insurance must be maintained during operation.

3-3-76 PARKING. ATVs and UTVs may be parked in City parking lots or on any City street where vehicle parking is permitted, except no ATV or UTV may be parked on any primary road extension or the downtown district between Pierce Street SW and Highway 136.

3-3-77 REGISTRATION REQUIREMENTS. No person shall operate an ATV or UTV on any public street or alley, for any purpose, unless the vehicle is registered with the Department of Natural Resources.

1. Proof of Ownership. The owner of each ATV/UTV shall be required to provide proof of ownership including Iowa Department of Natural Resources registration and proof of liability insurance with appropriate minimum standards as required by Iowa Code 321.20B and 321A.21.

2. Current Registration. ATV/UTV vehicles registered in Iowa are required to display their current Iowa Department of Natural Resources registration decal.

(Ord. 18-19, Passed 11-25-19)

## GOLF CARTS

3-3-80 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the Code of Iowa, as amended. This chapter applies whenever a golf cart is operated on any street or alley of the City of Cascade, Iowa.

(Code of Iowa, Sec. 321.247)

3-3-81 DEFINITIONS. “Golf Cart” is defined as a four-wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf that is either electric powered or gas powered with an engine displacement of less than 351 cubic centimeters, and a total dry weight of less than 800 pounds.

3-3-82 GENERAL REGULATIONS. No person shall operate a golf cart within the City unless the person is at least eighteen (18) years of age, possesses a valid driver’s license, and possesses a City of Cascade permit for the operation of a golf cart within the City in accordance with this Chapter. A violation of this section is a simple misdemeanor punishable as a scheduled violation under Iowa Code Section 805.8A.

(Code of Iowa, Sec. 321.247)

3-3-83 PLACES OF OPERATION. The operators of golf carts shall comply with the following restrictions as to where golf carts may be operated within the City:

1. Streets. Golf carts may be operated on all City streets unless prohibited by this Section. Golf carts may be operated on that part of 1st Avenue not designated a primary road extension.

2. Prohibited Streets. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension. Primary road extensions shall include all of Highway 136. Primary road extensions shall include all of 1st Avenue (Business 151) except that portion of 1st Avenue located from Buchanan Street through Taylor Street and except that portion of 1st Avenue located from Washington Street through Jack Oak Drive. A violation of this section is a simple misdemeanor punishable as a scheduled violation under Iowa Code Section 805.8A.

(Code of Iowa, Sec. 321.247[1a])

3. EXCEPTIONS TO PROHIBITED STREETS. The City of Cascade, a political subdivision can legally operate on prohibited streets for the purpose of construction or maintenance per State Code 321.234A. The City shall legally operate on 1<sup>st</sup> Ave business district to water the planters from spring through fall by city employees or an organization under the City of Cascade.

3-3-84 HOURS OF OPERATION. Golf carts may be operated on City streets only between sunrise and sunset, except in inclement weather. A violation of this section is a simple misdemeanor punishable as a scheduled violation under Iowa Code Section 805.8A.

(Code of Iowa, Sec. 321.247)

3-3-85 EQUIPMENT. Golf carts operated upon City streets shall be equipped with at least the following:

1. A slow moving vehicle sign;

(Code of Iowa, Sec. 321.247[1b])

2. A bicycle safety flag, the top of which shall be a minimum of five (5) feet from ground level;

(Code of Iowa, Sec. 321.247[1b])

3. Adequate brakes;

(Code of Iowa, Sec. 321.247[1b])

4. Rear mirrors; or

5. Side mirrors;

6. Safety belts.

A violation of this section is a simple misdemeanor punishable as a scheduled violation under Iowa Code Section 805.8A.

(Code of Iowa, Sec. 321.247)

3-3-86 UNLAWFUL OPERATION.

1. No golf carts shall be operated or parked upon City sidewalks, trails, City parks, or other City land.

2. No golf cart shall be operated on private property without the express consent of the owner.

3. No golf cart shall be operated while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.

4. No person shall operate a golf cart in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to the same.

5. No golf cart shall be operated in violation of the traffic laws of the City of Cascade and the State of Iowa.

6. No golf cart shall carry more passengers than which the golf cart is designed.

7. No person shall ride in a golf cart unless seated in a designated seat and secured with a safety belt.

8. No seat shall be used by more than one person at a time.

9. No cargo, materials, supplies, or other items may be transported in the golf cart without being properly restrained.

10. No owner shall permit a person under the age of eighteen (18) to operate a golf cart.

11. No person shall leave a golf cart unattended on public property while the motor is running or the keys are in the ignition switch.

12. Proof of insurance must be maintained during operation.

3-3-87 SPEED. No golf carts shall be operated on any City street at a speed in excess of twenty-five (25) miles per hour.

3-3-88 PARKING. Golf carts may be parked in City parking lots or on any City street where vehicle parking is permitted, except no golf cart may be parked on any primary road extension.

3-3-89 GOLF CARTS REGISTERED. No person shall operate a golf cart on any public street or alley, for any purpose, unless the operator possesses a City of Cascade permit to operate a golf cart on City streets, issued by the City Clerk.

1. Golf cart owners may apply for a permit from the City Clerk on forms provided by the City.

2. The Clerk shall not issue a permit until the owner has provided the following:

a. Evidence that the owner is at least 18 years of age and possesses a valid driver's license.

b. Proof that the owner has liability insurance covering operation of golf carts on City streets in the minimum amount required for operation of motor vehicles.

c. The Police Department has inspected the golf cart to verify it meets the requirements of this Chapter.

- d. Payment of the permit fee.
3. The permit sticker shall be displayed visibly and prominently on the left rear.
4. The permit shall be effective from January 1 in even-numbered years through December 31 of odd-numbered years.
5. The permit fee shall be twenty dollars (\$20.00). However, if the permit is obtained during an odd-numbered year, the fee shall be reduced to ten dollars (\$10.00).
6. A copy of the Golf Cart Code will be handed out to everyone who applies for a permit.
7. If permitted owner of golf cart purchases a new unit during a 2-year permit period, owner shall comply with the following guidelines:
  1. The Police Department has inspected the new golf cart to verify it meets the requirements of this chapter.
  2. Proof that the owner has liability insurance covering the new golf cart on city streets.
  3. Evidence that the owner is at least 18 years of age and possesses a valid driver license.
  4. Payment of twenty dollars (\$20.00) registration fee.

3-3-90 SUSPENSION OF PERMIT. The permit may be suspended or revoked by the City Clerk, Police Chief and City Administrator without refund upon evidence that the permit holder has violated any section of this Chapter. Upon three (3) convictions within a two (2) year period of a violation of this Chapter or violations of the Iowa Code or Cascade Code of Ordinances while operating a golf cart, the permit shall be suspended for a period of two (2) years.

3-3-91 PENALTY. Unless another penalty is stated, a violation of this Chapter shall be a municipal infraction subject to the following penalties:

1. For a first offense, a fine of one hundred twenty-five dollars (\$125.00).
2. For a second and each subsequent offense within a two (2) year period, a fine of at least two hundred fifty dollars (\$250.00), but not more than seven hundred fifty dollars (\$750.00).  
(Ord. 17-19, Passed 11-25-19)

## PENALTIES AND PROCEDURE

3-3-92 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

3-3-93 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-94 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

		Penalty After <u>30 Days</u>
1. Overtime parking	\$5.00	\$10.00
2. Prohibited parking	\$5.00	\$10.00
3. No parking zone	\$5.00	\$10.00
4. Blocking alley	\$5.00	\$10.00
5. Illegal parking	\$5.00	\$10.00
6. Street cleaning	\$5.00	\$10.00
7. Snow removal ban	\$5.00	\$10.00
8. Persons with disabilities parking	\$ 100.00	\$200.00
	(Code of Iowa, Sec. 321L.4(2))	

3-3-95 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

## **CHAPTER 4 RESERVED**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 5 FIRE PROTECTION**

3-5-1	Establishment and Purpose	3-5-10	Constitution
3-5-2	Organization	3-5-11	Accidental Injury Insurance
3-5-3	Residency Requirement	3-5-12	Liability Insurance
3-5-4	Approved by Council	3-5-13	Calls Outside City
3-5-5	Training	3-5-14	Mutual Aid
3-5-6	Compensation	3-5-15	Authority to Cite Violations
3-5-7	Election of Officers	3-5-16	Emergency Ambulance Service
3-5-8	Fire Chief: Duties		
3-5-9	Obedience to Fire Chief		

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

(Code of Iowa, Sec. 364.16)

3-5-2    **ORGANIZATION.** The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council.

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

3-5-3    **RESIDENCY REQUIREMENT.** No person shall be recruited, selected or appointed as a member of the Fire Department unless such person is a citizen of the United States and a resident of the greater Cascade, Iowa, area. Such area is defined as that area within ten (10) miles of the City.

3-5-4    **APPROVED BY COUNCIL.** No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.

3-5-5    **TRAINING.** All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

3-5-6    **COMPENSATION.** Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the Council.

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

3-5-7    **ELECTION OF OFFICERS.** The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of Fire Chief shall be subject

to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

3-5-8 FIRE CHIEF: DUTIES. The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including but not limited to the following:

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

4. Control of Scenes. Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.

(Code of Iowa, Sec. 102.2)

5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, Sec. 102.3)

6. 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.

7. 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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of

the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

9. Right of Entry. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection which under law or ordinance may be necessary to be made and is reasonably necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 100.12)

10. Recommendation. Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

(Code of Iowa, Sec. 100.13)

11. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing and reporting data pertaining to fires.

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

13. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

3-5-9 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

3-5-10 CONSTITUTION. The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the Council.

3-5-11 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 fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

(Code of Iowa, Sec. 85.2, 85.61 and Sec. 410.18)

3-5-12 LIABILITY INSURANCE. The Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.

(Code of Iowa, Sec. 670.2 & 517A.1)

3-5-13 **CALLS OUTSIDE CITY.** The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

3-5-14 **MUTUAL AID.** Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

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

3-5-15 **AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 100 of the Code of Iowa may issue citations in accordance to Chapter 805 of the Code of Iowa, for violations of state and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)

3-5-16 **EMERGENCY AMBULANCE SERVICE.** The department is authorized to provide emergency ambulance or rescue services and the accidental injury and liability insurance provided for herein shall include such operation.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 6 CURFEW FOR MINORS**

3-6-1	Preamble	3-6-4	Offenses
3-6-2	Findings and Purpose	3-6-5	Defenses
3-6-3	Definitions	3-6-6	Enforcement

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

(Code of Iowa, Sec. 364.1)

#### **3-6-2 FINDINGS AND PURPOSE.**

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

#### **3-6-3 DEFINITIONS. In this chapter:**

1. Curfew hours means 10:00PM until 5:30AM Sunday thru Thursday and 11:00PM thru 5:30AM Friday and Saturday.

2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

#### **4. Guardian means:**

- a. A person who, under court order, is the guardian of the person of a minor; or
- b. A public or private agency with whom a minor has been placed by a court.

5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
  - a. A biological parent, adoptive parent, or step-parent of another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
  - a. Linger or stay; or
  - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

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

#### 3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;

- b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- c. In a motor vehicle involved in interstate travel;
- d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- e. Involved in an emergency;
- f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Cascade, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Cascade, a civic organization, or another similar entity that takes responsibility for the minor;
- h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- i. Married or had been married.

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

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

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

**WARNING.** The first time a minor is detained by law enforcement for violation of this section, the minor shall be delivered to the person having legal custody of said minor. The minor and legal custodian shall be informed of the provisions in this section. Any subsequent violation shall be subject to a penalty.



## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**

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

3-7-1     **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

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

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

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

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

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

3-7-2     **EXEMPTIONS.** The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising;

route delivery persons who incidentally solicit additional business or special sales; persons customarily calling on businesses or institutes for the purpose of selling products for resale or institutional use.

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. An application fee of \$100.00 for each day of licensure shall be paid at the time of filing application to cover the cost of investigation and issuance.

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

3-7-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

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

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 8:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall provide to the Clerk, evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

3-7-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in the City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-7-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-7-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violate this Ordinance or has otherwise conducted business in an unlawful manner.

NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than 10 days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

HEARING. The clerk shall conduct a hearing at which both the licensee and any complaints shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative fail to appear without good cause, the clerk may proceed to a determination of the complaint.

RECORD AND DETERMINATION. The clerk shall make and record finding of fact and conclusions of law and shall revoke a license only when upon review of the entire record the clerk finds clear and convincing evidence of substantial violation of this chapter or state law.

APPEAL. If the clerk revokes or refuses to issue a license, the clerk shall make a part of the record the reasons therefor. The licensee or applicant, shall have a right to a hearing before council at its next regular meeting. Council may reverse, modify or affirm the decision of the clerk by a majority vote of council members present. The clerk shall carry out the decision of council.

EFFECT OF REVOCATION. Revocation of any permit shall bar the licensee from being eligible for any permit under this chapter for a period of 1 year from the date of the revocation.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 8 CIGARETTE/TOBACCO/NICOTINE/VAPOR PERMITS**

3-8-1 Definitions

3-8-2 Permit Required

3-8-3 Application

3-8-4 Fees

3-8-5 Issue/Expiration

3-8-6 Refunds

3-8-7 Under Legal Age

3-8-8 Suspension/Revocation

3-8-1 Definitions. For use in this chapter the following terms are defined.

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

2. Place of business means any place where cigarettes are sold, stored or kept for the purpose of sale of consumption by a retailer.

3. Retailer means every person who sells, distributes or offers for sale for consumption or possess for the purpose of sale for consumption cigarettes, irrespective of the quantity or amount or the number of sales.

4. Tobacco products mean cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts or refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise or for both chewing and smoking but does not mean cigarettes.

5. Nicotine means a colorless, oily, water-soluble, highly toxic, liquid alkaloid,  $C_{10}H_{14}N_2$ , found in tobacco and valued as an insecticide.

6. Vapor means a visible exhalation, as fog, mist, steam, smoke, or noxious gas, diffused through or suspended in the air.

3-8-2 Permit Required. It is unlawful for any person other than a holder of a retail permit to sell cigarettes, tobacco, nicotine or vapor products at retail and no retailer shall distribute, sell or solicit the sale of such products 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 is visible to the public. No permit shall be issued to a minor.

3-8-3 Application. A completed application on forms provided by the State Department of Revenue shall be filed with the city clerk. Renewal applications shall be filed no less than 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 upon the application, the costs of such special meeting shall be paid by the applicant.

3-8-4 Fees. The fee for a retail cigarette/tobacco/nicotine/vapor permit shall be as follows:

July, August, September	\$75.00	
October, November, December	\$56.25	
January, February, March	\$37.50	
April, May, June		\$18.75

3-8-5 Issuance and Expiration. Upon proper application and payment of the fee a permit shall be issued. Each permit issued shall describe the place of business for which it is issued and shall be non-assignable. Permits expire June 30 of each year.

3-8-6 Refunds. A retailer may surrender an unrevoked permit and receive a refund from the city, except during April, May or June in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

3-8-7 Persons Under Legal Age. No person shall sell, give or otherwise supply any cigarette/tobacco/nicotine/vapor products to any person under the age of eighteen (18) years. The provision of this section includes prohibiting a minor from purchasing such products from a vending machine.

A person under the age of eighteen (18) years shall not smoke, use, possess, purchase or attempt to purchase cigarette/tobacco/nicotine/vapor products.

3-8-8 Permit Suspension and Revocation. If a retailer or employee of a retailer violates the provisions of this chapter they will be subject to the Iowa Department of Revenue Tobacco Enforcement penalties and fines.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 9 ALCOHOLIC BEVERAGES**

3-9-1	Purpose	3-9-3	Action by Council
3-9-2	Required Obedience to Provisions of this Chapter and State Law	3-9-4	Transfers

3-9-1     **PURPOSE.** The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-9-2     **REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.** The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration
16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

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

3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 10 JUNK AND ABANDONED (JUNK) VEHICLES**

3-10-1	Purpose	3-10-9	Notice to Abate
3-10-2	Definitions	3-10-10	Abatement by Municipality
3-10-3	Removal of Abandoned Vehicles and Junk	3-10-11	Collection of Cost of Abatement
3-10-4	Notification of Owners and Lienholders	3-10-12	Disposal of Totally Inoperable Vehicles
3-10-5	Impoundment Fees and Bonds	3-10-13	Proceeds from Sales
3-10-6	Hearing Procedures	3-10-14	Duties of Demolisher
3-10-7	Auction or Disposal of Abandoned Vehicles	3-10-15	Exceptions
3-10-8	Junk Vehicles and Junk Declared a Nuisance	3-10-16	Interference with Enforcement

3-10-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and junk, and the elimination of the open storage of abandoned and junk motor vehicles, junk and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-10-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

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

a. A vehicle that has been left unattended on public property for more than 48 hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or

b. A vehicle that has remained illegally on public property for more than 72 hours; or

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than 24 hours; or

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

e. Any vehicle parked on the street determined by police authority to create a hazard to other vehicular traffic.

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

However a vehicle shall not be considered abandoned for a period of five (5) days if its owner or operator is unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.

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

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

4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:

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

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

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

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

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

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

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

6. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

7. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

8. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.

(Code of Iowa Sec. 321.89[1a])

### 3-10-3 REMOVAL OF ABANDONED VEHICLES AND JUNK.

1. The police authority may, without prior notice or hearing, remove and impound any abandoned vehicle and/or junk as defined in section 3-10-2. The police authority may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles and/or junk.

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

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

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

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

### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle or junk is taken into custody under the provisions of this chapter or under any provisions of State law, the police authority shall notify, within 20 days, by certified mail with five-days return receipt, the last known registered owner of the vehicle or junk, all lienholders of record, and any other known claimant to the vehicle or junk or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle or junk has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

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

(1) of their right to reclaim the vehicle or junk and personal property within 21 days after the effective date of the notice;

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

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

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

e. State that any person claiming rightful possession of the vehicle or junk or personal property who disputes the planned disposition of the vehicle or junk or personal property by the police authority or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the 21 day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle or junk may be obtained by posting a cash bond as required by Section 3-10-5.

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

2. The owner, lienholders or any person receiving notice may, by written request received by the police authority prior to the expiration of the 21 day reclaiming period, obtain an additional fourteen days within which the vehicle or junk may be reclaimed.

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

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

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

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

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

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

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

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the 21 day reclaiming period.

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

### 3-10-5 IMPOUNDMENT FEES AND BOND.

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

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

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

2. The owner or lienholder shall pay three dollars (\$3.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by resolution of the Council.

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

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle or junk shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-10-5(2)
- b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

### 3-10-6 HEARING PROCEDURES.

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

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

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. If an abandoned motor vehicle has not been reclaimed as provided herein, the police authority shall make a determination as to whether or not the motor vehicle should be sold for use upon the highway and shall dispose of the motor vehicle in accordance with state law.

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

3-10-8 JUNK VEHICLES AND JUNK DECLARED A NUISANCE. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle, or any junk, upon either public or private property within the corporate limits of the City of Cascade, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk or junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within.

### 3-10-9 NOTICE TO ABATE.

1. Whenever the police authority shall find junk or a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the police shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.
- b. the occupant of the property.

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle or junk in general.
- b. describe the location of the junk or junk vehicle.
- c. state that the junk or the junk vehicle constitutes a nuisance under the provisions of this chapter.

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

e. 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.

3-10-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

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

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-10-12 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may, without notification procedures, dispose of such motor vehicle if it lacks an engine, or two (2) or more wheels, or other structural part which renders the vehicle totally inoperable, to a demolisher for junk without the title.

(Code of Iowa, Sec. 321.90[2e])

3-10-13 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder 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 authority shall apply for reimbursement from the Department of Public Safety.

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

3-10-14 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 motor vehicle. When a demolisher acquires a motor vehicle under Section 80.08, demolisher shall apply to the police authority 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, Sec. 321.90[3a])

3-10-15 EXCEPTIONS. This chapter shall not apply to the following:

1. A junk vehicle or junk in general in an enclosed building.
2. A junk vehicle or junk in general on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
3. A junk vehicle or junk in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-16 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 11 DANGEROUS BUILDINGS**

3-11-1	Enforcement Officer	3-11-5	Conduct of Hearing
3-11-2	General Definition of Unsafe	3-11-6	Posting of Signs
3-11-3	Unsafe Building	3-11-7	Right to Demolish
3-11-4	Notice to Owner	3-11-8	Costs

3-11-1 **ENFORCEMENT OFFICER.** The City Administrator is responsible for the enforcement of this chapter.

3-11-2 **GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

3-11-3 **UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. **Various Inadequacies.** Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

2. **Manifestly Unsafe.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. **Inadequate Maintenance.** Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. **Fire Hazard.** Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. **Abandoned.** Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is

abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

3-11-4 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

3-11-5 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

3-11-6 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF CASCADE, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

3-11-7 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

3-11-8 COSTS. Costs incurred under Section 3-11-7 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. Additionally, the City shall collect costs associated with the repair, rehabilitation and demolition with a lawsuit.

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

(Ord. 09-16, Passed May 9, 2016)

#### EDITOR'S NOTE

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 12 POLICE DEPARTMENT**

3-12-1	Department Established	3-12-7	Police Chief: Duties
3-12-2	Organization	3-12-8	Departmental Rules
3-12-3	Peace Officer Qualifications	3-12-9	Summoning Aid
3-12-4	Required Training	3-12-10	Taking Weapons
3-12-5	Compensation	3-12-11	Contract Law Enforcement
3-12-6	Peace Officers Appointed		

3-12-1 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.

3-12-2 ORGANIZATION. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

3-12-3 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

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

3-12-4 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11 [2])

(IAC, 501-3 and 501-8)

3-12-5 COMPENSATION. Members of the department are designated by rank and receive such compensation as shall be determined by resolution of the Council.

3-12-6 PEACE OFFICERS APPOINTED. The Mayor shall appoint the Police Chief upon City Council approval and the Police Chief shall appoint, subject to the approval of the City Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

3-12-7 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

(Code of Iowa, Sec. 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 the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 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 may be 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 may be requested by the Mayor or Council.

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

3-12-8 DEPARTMENTAL RULES. The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the Council, as may be necessary for the operation of the department.

3-12-9 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, 804.17)

3-12-10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, 804.18)

3-12-11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein. (Code of Iowa, Sec. 28E.30)

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 13 RESERVE POLICE FORCE**

3-13-1	Establishment	3-13-4	Limited Powers
3-13-2	Membership	3-13-5	Compensation
3-13-3	Term of Service; Grounds for Dismissal	3-13-6	Firearms

3-13-1 **ESTABLISHMENT.** There is hereby created and established the Cascade Reserve Police Force, as provided by Chapter 80D, Code of Iowa, and subject to the regulations therein contained. The Reserve Police Force shall serve until abolished by the Council.

3-13-2 **MEMBERSHIP.** Membership in the Reserve Police Force shall be as prescribed in the Reserve's bylaws, rules and regulations and shall be subject to the approval of the Mayor and the Police Chief. The Mayor and Police Chief may, from time to time, prescribe such other bylaws, rules and regulations as they, in their sole discretion, may deem to be desirable. All rules, regulations or bylaws of the Reserve shall be approved by the Police Chief.

3-13-3 **TERM OF SERVICE; GROUNDS FOR DISMISSAL.** The members of the Reserve shall serve at the discretion of the Police Chief and shall be removed and discharged from the Reserve at any time upon violation of any bylaw, rule or regulation prescribed as aforesaid or upon recommendation of the Reserve Executive Committee. No member of the Reserve shall violate this Code of Ordinances or the laws of the State of Iowa or of the United States of America, and such violation shall be grounds for summary dismissal.

3-13-4 **LIMITED POWERS.** The members of the Reserve are subject to lawful orders of members of the Police Department and the Mayor.

3-13-5 **COMPENSATION.** Members of the Reserve are considered employees of the City during those periods when they are performing police duties as authorized and directed by the Police Chief, or the Assistant Chief in the absence of the Chief, and they shall receive a salary of one dollar (\$1.00) per year. However, said Reserve members are not entitled to any benefits or obligations of Police Retirement benefits or Civil Service.

3-13-6 **FIREARMS.** Members of the Reserve shall not, at any time, carry firearms except as provided by Section 80D.7 of the Code of Iowa.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 14 EMERGENCY MEDICAL SERVICE**

3-14-1	Establishment and Purpose	3-14-8	Fees and Records
3-14-2	Organization	3-14-9	Charges for Services
3-14-3	Approval by Council	3-14-10	Explanation of Charges
3-14-4	Operations and Training	3-14-11	Ambulance Fund
3-14-5	Care of Vehicles and Equipment	3-14-12	Payment of Fees
3-14-6	Injury and Liability Insurance	3-14-13	Contract with Townships
3-14-7	Mutual Aid		

3-14-1 ESTABLISHMENT AND PURPOSE. A municipal volunteer emergency medical service of the City of Cascade is hereby established to provide emergency medical and ambulance services in the City of Cascade and to area townships.

3-14-2 ORGANIZATION. The emergency medical service shall consist of a Director and such other officers and personnel as may be recommended by the Director and authorized by the Council. All personnel of the emergency medical service shall be trained in emergency medical procedures and protocols.

3-14-3 APPROVAL BY COUNCIL. All personnel of the emergency medical service and all stipends paid to them shall be approved by the Cascade City Council.

3-14-4 OPERATIONS AND TRAINING. The emergency medical service shall be under the direction, deployment and oversight of the Director. Ongoing training and qualifying of emergency medical service personnel shall also be the duty and responsibility of the Director.

3-14-5 CARE OF VEHICLES AND EQUIPMENT. The care and maintenance of the vehicles and equipment of the emergency medical service shall be the direct responsibility of the Director.

3-14-6 INJURY AND LIABILITY 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 ambulance personnel injured in the performance of their duties with the emergency medical service. All emergency medical service personnel shall be covered by the contract. The Council shall also contract to insure against liability of the City and emergency medical service personnel for injuries, death or property damage arising out of and resulting from performance of emergency medical services within or outside the corporate limits of the City.

3-14-7 MUTUAL AID. Subject to approval by resolution of the City Council, the emergency medical service may enter into mutual aid agreements with other legally constituted EMS services. Copies of any such agreements shall be filed with the Clerk.

3-14-8 FEES AND RECORDS. It shall be the responsibility of the Director to bill the fees and charges of the emergency medical service and maintain a set of books and the records of the emergency medical service.

3-14-9 CHARGES FOR SERVICE. The following fees and charges for emergency medical services are hereby established:

<b>Fees/Charges</b>	<b>Resident</b>	<b>Non-Resident</b>
1. BLS (Basic Life Support) Rate	\$450.00	\$525.00
2. ALS1 (Advanced Life Support) Rate	\$500.00	\$600.00
3. ALS2 (Advance Life Support) Rate	\$600.00	\$675.00
4. BLS on Scene Care	\$110.00	\$110.00
5. ALS on Scene Care	\$250.00	\$300.00
6. Mileage	\$11.00/mile	\$11.50/mile
7. Oxygen	\$50.00	\$50.00
8. Spinal Immobilization	\$100.00	\$100.00
9. Supplies	At Cost	At Cost

(Ord. 45-13, Passed January 13, 2014)

3-14-10 EXPLANATION OF CHARGES. The following is an explanation of the above fees and charges, and when the fees and charges will be charged:

1. BLS is Basic Life Support and the BLS fee is charged when basic treatment is given and patient is transported.

2. ALS is Advanced Life Support and the ALS1 fee is charged when it is medically necessary or an assessment by an advanced life support provider is given, one or more ALS interventions is performed, and the patient is transported.

3. The ALS2 fee is charged when it is medically necessary to administer at least three different medications by intravenous push/bolus or continuous infusion or proved one or more of the following ALS procedures – manual defibrillation/cardioversion, endotracheal intubation, central venous line, cardiac pacing, chest compression, surgical airway, and intraosseous line.

4. BLS on Scene Care is charged when the emergency medical service responds to a call, provides basic treatment, and the patient refuses transport and/or is simply not transported.

5. ALS on Scene Care is charged when the emergency medical service responds to a call, provides treatment including an ALS assessment or at least one ALS intervention.

6. Mileage is based on loaded miles traveled from pickup of patient to arrival at the destination. Any portion of a mile will be billed as a complete mile.

3-14-11 AMBULANCE FUND. All monies received by the City as payment for emergency medical services shall be credited to the Ambulance Fund. Such fees collected and other emergency medical service revenues shall be used exclusively for the operation, maintenance, and

administration of the emergency medical service, including but not limited to personnel, equipment, maintenance, oversight, and expenditures related to billing and collections. Expenditures from the Ambulance Fund shall be made by appropriation of the City Council.

3-14-12 PAYMENT OF FEES. The City Council may contract with third party billing and collection services to facilitate the billing and collection of monies owed to the City for emergency medical services. The City may bring suit in the name of the City against any person upon failure of such person to pay for the provision of emergency medical service when such service has been rendered by the emergency medical service. Any such civil action shall be in addition to other remedies available by law or in equity. Nothing in this Chapter shall authorize the City, its officials, or personnel, to refuse or delay emergency medical service to any person for the reason that such person has not paid for emergency medical service or owes for previous emergency medical service.

3-14-13 CONTRACT WITH TOWNSHIPS. The City Council shall have the authority under Chapter 28E of the Code of Iowa to contract with area Townships for the purpose of extending and providing emergency medical service to the Townships.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 15 HAZARDOUS SUBSTANCE SPILLS**

3-15-1	Purpose	3-15-5	Notifications
3-15-2	Definitions	3-15-6	Police Authority
3-15-3	Cleanup Required	3-15-7	Liability
3-15-4	Liability for Cleanup Costs		

3-15-1 **PURPOSE.** In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance spills within the City limits.

3-15-2 **DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.

(Code of Iowa, Sec. 455B.381[1])

2. “Hazardous condition” means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.

(Code of Iowa, Sec. 455B.381[4])

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

(Code of Iowa, Sec. 455B.381[5])

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

3-15-3 **CLEANUP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

3-15-4 **LIABILITY FOR CLEANUP COSTS.** The responsible person shall be strictly liable to the City for all of the following:

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

3-15-5 **NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, which shall then notify the Department of Natural Resources.

3-15-6 POLICE AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of any law enforcement officer issued under this section.

3-15-7 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 16 SNOW REMOVAL**

3-16-1	Purpose	3-16-5	Removal of Snow & Ice from Sidewalks
3-16-2	Snow Emergency Declaration		
3-16-3	Snow Removal Routes	3-16-6	Vehicle Parking During a Snow Emergency
3-16-4	Driveways & Snow from Private Property		

3-16-1 **PURPOSE.** The purpose of this Chapter is to establish and maintain uniform definitions and procedures concerning snow and ice removal for the City of Cascade. The City will provide snow and ice removal in a safe and cost-effective manner, taking into account safety, budget, personnel and environmental concerns. This Chapter does not guarantee that the streets, public parking lots, city maintained sidewalks, and other public areas will be free of snow and ice; but rather attempts to maintain an adequate traveling surface for properly equipped vehicles and pedestrians during winter conditions. Snow and ice removal from public streets, public parking areas, city maintained sidewalks, and other public areas is an emergency operation that takes precedence over other non-emergency work for the public works department.

3-16-2 **SNOW EMERGENCY DECLARATION.** A snow emergency is defined as a snowfall event of 4 inches or more; however, any amount of snow combined with ice, rain, and/or wind may also constitute a snow emergency. The Mayor and/or his/her designee may declare a snow emergency. A snow emergency may be declared in advance of an anticipated storm, during a storm, or after a storm. A snow emergency will normally not last more than 24 hours past the end of the last snowfall; but may be extended or shortened when conditions warrant. The public will be informed of a snow emergency through mass media outlets as deemed necessary by the Mayor.

3-16-3 **SNOW REMOVAL ROUTES.** The City Council shall establish and maintain a priority list of streets, public parking areas, city maintained sidewalks, and other public areas for snow and ice removal by resolution.

3-16-4 **DRIVEWAYS AND SNOW FROM PRIVATE PROPERTY.** City snowplows will not clear private driveways. The snow placed in driveways by the city plows is an unavoidable consequence of removing snow from the streets and it is the responsibility of the property owner to remove. Snow from private driveways, parking lots and sidewalks may not be placed on city streets. The only exception is snow in the Downtown Business District where the proximity of buildings to the street leaves no place other than the street to remove snow to. Downtown snow must be placed on the street in such a way that a safety hazard is not created and the travel path of the street is not obstructed.

3-16-5 **REMOVAL OF SNOW AND ICE ACCUMULATIONS ON SIDEWALKS.** It is the responsibility of the abutting property owners to remove snow and ice accumulations promptly from sidewalks. If a property owner does not remove snow and ice accumulations within a

reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

3-16-6 VEHICLE PARKING DURING A SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley or City-owned off-street parking area during a snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. Vehicles parked on the street during a snow emergency are subject to tow without notice to the owners and at the owner's expense. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the twenty-four hour period after cessation of the storm except as above provided upon streets that have been fully opened. The ban shall be of uniform application and the Police Chief is directed to publicize the requirements, using all available news media, in early November each year. The emergency may be extended or shortened when conditions warrant.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 17 FIREWORKS**

3-17-1	Definition	3-17-4	Exceptions
3-17-2	Fireworks Use Regulations	3-17-5	Penalties
3-17-3	Fireworks Sale Regulations		

3-17-1 **DEFINITION.** For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

1. Fireworks. The term "fireworks" includes any item or class of items defined in Iowa Code Sec. 727.2(1)(a).

(Iowa Code §§ 727.2; 100.19)

3-17-2 **FIREWORKS USE REGULATIONS.** It is unlawful for any person to use or explode any fireworks; provided the city may, upon application in writing, grant a permit for the display of fireworks by a city agency, fair associations, amusement parks and other organizations or groups of individuals approved by city authorities when the fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the city evidence of insurance in the following amounts:

Personal injury	\$250,000 per person
Property damage	\$50,000
Total exposure	\$1,000,000

(Iowa Code § 727.2)

3-17-3. **FIREWORKS SALE REGULATIONS.** The City hereby adopts all standards, rules, regulations, and the like promulgated or that will be promulgated by the State Fire Marshall regarding the sale of fireworks pursuant to Iowa Code §§ 100.1; 100.19; 727.2. The City specifically adopts National Fire Protection Association standard 1124 with respect to the requirements for the safe handling, storage, transportation, display, and retail of fireworks.

All other provisions of the City Code of Ordinances not in conflict with this Section or with the laws of the State of Iowa remain valid and enforceable.

(Iowa Code §§ 100.1; 100.19; 727.2)

3-17-4 **EXCEPTIONS.** This subchapter does not prohibit the sale by a resident, dealer, manufacturer or jobber of fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of state; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This subchapter does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Iowa Code § 727.2)

3-17-5. PENALTIES. Any person who violates the provisions of the fireworks ordinance shall be guilty of a scheduled simple misdemeanor violation punishable by a \$500 fine in addition to established court costs. Persons who cause injury as a result of reckless discharging of fireworks shall be guilty of a serious misdemeanor charge with appearance before a magistrate required.

(Iowa Code, Sections 100.19; 727.2)

(Ord. 4-17, Passed June 26, 2017)

## **TITLE IV MENTAL AND PHYSICAL HEALTH**

### **CHAPTER 1 ANIMAL CONTROL**

4-1-1	Definitions	VICIOUS ANIMALS
4-1-2	License	
4-1-3	Immunization	4-1-9 Keeping a Vicious Animal
4-1-4	At Large Prohibited	4-1-10 Seizure, Impoundment and Disposition of Vicious Animals
4-1-5	Animal Nuisances	4-1-11 Animal Neglect
4-1-6	Impounding	4-1-12 Abandonment of Cats and Dogs – Penalties
	DANGEROUS ANIMALS	4-1-13 Livestock
4-1-7	Dangerous Animals Prohibited	4-1-14 Owners Duty
4-1-8	Seizure, Impoundment and Disposition of Dangerous Animals	4-1-15 Prohibited Acts
		4-1-16 Confinement
		4-1-17 Kennel Dogs

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

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

4-1-2 LICENSE.

1. Annual License Required. Every owner of a dog over the age of six (6) months shall procure a dog license from the Police Department on or before the first day of July of each year. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog shall be revaccinated.

2. Fee. The annual license fee for each male dog, for each female dog, and for each spayed dog shall be set by resolution by the City Council.

3. License Records. Upon payment of the license fee, and providing proof of a current vaccination against rabies, the Police Department shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog. The Police Department shall keep a duplicate of each license issued as a public record, which will show:

- a. The serial number and date of each application for a license.
- b. The description of the dog as specified in the application, together with the name of the owner of the dog.
- c. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.
- d. The amount of all fees paid.
- e. Such other data as may be required by law.

4. License Tags. Upon issuance of the license, the Police Department shall deliver or mail to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued.

5. Delinquency. All license fees shall become delinquent on the first day of July of the year in which they are due and a delinquent penalty of one dollar (\$1.00) shall be added to each unpaid license on and after said date.

A license issued for one dog shall not be transferable to another dog. Upon the expiration of the license the owner shall remove said tag from the dog. Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

6. Duplicate Tags. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag from the Cascade Police Department. The Police Department shall enter in the license record the new tag number assigned. The fee for duplicate tags shall be established by resolution of the Council.

7. Transfers of Licensed Dogs. Upon transfer of a licensed dog into the City, the owner shall surrender the original license tag to the Police Department. The Police Department shall preserve the surrendered tag and, without a license fee, issue a new license tag, provided that proof of registration and rabies vaccination is shown.

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

Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.41)

4-1-5 **ANIMAL NUISANCES.** It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

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

2. Causes unsanitary, dangerous or offensive conditions.

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

(Code of Iowa, Sec. 657.1)

4-1-6 **IMPOUNDING.**

1. Any unlicensed or unvaccinated dog found at large or any licensed dog 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.

2. Owners of licensed dogs shall be notified within two (2) days that upon payment of impounding fees, the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 Code of Iowa.

3. Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner. The impounding fee shall be set by Resolution of the Cascade Council. (Ordinance 52-04, 2-9-04)

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor.

(Code of Iowa, Sec. 351.39)

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

(Code of Iowa, Sec 351.39)

## DANGEROUS ANIMALS

### 4-1-7 DANGEROUS ANIMALS PROHIBITED.

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

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

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

(1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

(2) Wolves, coyotes, and foxes;

(3) Badgers, wolverines, weasels, skunks and mink;

(4) Raccoons;

(5) Bears;

(6) Monkeys, chimpanzees, and apes;

(7) Alligators and crocodiles;

(8) Scorpions; gila monsters;

(9) Snakes that are venomous or constrictors;

(10) Any pit bull terrier, which is defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Staffordshire Terrier, American Bully, American Pit Bull Terrier, Blue Nose or Red Nose Pit Bull by a qualified veterinarian duly licensed as such by the State.

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

(12) Bees or Bee Hives

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

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

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

#### 4-1-8 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Animal Control Officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises in the City, the Animal Control Officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the Animal Control Officer shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under Section 56.01 of this chapter to possess dangerous animals, or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Animal Control Officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal issued by the Animal Control Officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Animal Control Officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After such hearing, the Council may affirm or reverse the order of the Animal Control Officer. Such determination shall be contained in a written

decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Animal Control Officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City, permanently place such animal with an organization or group allowed under Section 56.01 to possess dangerous animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Animal Control Officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Animal Control Officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Council was issued has not petitioned the District Court for a review of said order, the City shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under Section 56.01 of this chapter to possess dangerous animals or destroy such animal in a humane manner.

## VICIOUS ANIMALS

4-1-9 KEEPING A VICIOUS ANIMAL. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought to reasonably be known to the owner thereof. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City, except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.

2. The keeping of guard dogs; however, guard dogs, must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 56.04. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Department that a guard dog is on duty at said premises.

## 4-1-10 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The Animal Control Officer or designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult

residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the Council determines that an animal is vicious, the Council shall order the person owning, sheltering or harboring or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Animal Control Officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Council was issued has not petitioned the District Court for a review of such order, the Animal Control Officer shall cause the animal to be destroyed.

3. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor offense.

4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot be safely be apprehended, in which case the Animal Control Officer may immediately destroy it or unless its ownership is not ascertainable, in which case the Animal Control Officer may destroy it after three (3) days' impoundment.

5. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, such impoundment or quarantine shall be paid by the City.

4-1-11 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

4-1-12 ABANDONMENT OF CATS AND DOGS — PENALTIES.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

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

4-1-13 LIVESTOCK

1. Regulations. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

2. Neglect. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

4-1-14 OWNER'S DUTY. It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It shall be the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

4-1-15 PROHIBITED ACTS. It is unlawful for any person to do the following:

1. Aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment is upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

2. Fail to restrain an animal owned by such person or in such person's custody or control within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another.

3. Interfere in any manner with any employee or designated representative of the City so as to hinder, delay or prevent the execution of such employee's duties in relation to the matters and things contained in these chapters pertaining to Animal Control.

4. Fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house or person's dwelling or other structure where an animal under such person's care and control is at any time kept. At least once every twenty-four hours, or more often if odors or health problems arise, such persons shall pick up any and all feces so as to prevent its accumulation and the same shall be properly disposed of. Feces shall be held in watertight and fly-tight containers pending disposal and shall be disposed of at least once weekly. The animal and the place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food and water shall be stored and placed for the animal's consumption in such a manner so that it will not become food for rodents and other vermin.

5. Own or harbor more than six (6) dogs over twelve months of age at any one time, or keep more than ten (10) dogs under two months of age at any one time or for more than fifty (50) days in any year. The provisions of this subsection do not apply to persons operating a commercial, boarding or hobby kennel.

6. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

(Ordinance 52A-04, 7-26-04)

7. All feces removed as aforesaid shall be placed in a container and shall be stored in a sanitary manner in an appropriate refuse container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.

(Ordinance 52A-04, 7-26-04)

#### 4-1-16 CONFINEMENT.

1. When the City receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, a police officer shall order the owner to deliver such animal to a veterinarian in the County for examination within twenty-four hours.

2. If the animal has been vaccinated in the manner required by this Code of Ordinances, the owner may, after the animal has been examined by a veterinarian, confine the animal at his or her place of residence. If this is not possible, the animal must be confined at a veterinary hospital. In either case, the animal must be confined for a period of fourteen (14) days.

3. If the animal is confined by the owner, the same veterinarian who examined the animal at commencement of confinement, or a veterinarian designated by the original veterinarian, must re-examine the animal and issue a written release before the owner may end such confinement.

4. If the owner fails to confine the animal as ordered, the animal shall be apprehended and impounded by the City, and after two weeks, the City may humanely destroy the animal. If the animal is returned to its owner, the owner shall pay the costs of impoundment.

5. If the animal has not been vaccinated in the manner required by this Code of Ordinances, the animal shall be confined at a veterinary hospital for fourteen (14) days or be immediately humanely destroyed and the brain transported to a qualified laboratory for examination.

6. The veterinarian examining such animal shall report his or her findings to the Dubuque County Board of Health, to the City and to the physician attending the victim within twenty-four hours of the final examination. Said reports should be made immediately by telephone or in person and verified in writing at the earliest opportunity.

7. The owner of any animal reasonably subjected to the foregoing procedures shall pay all expenses resulting from such apprehension, confinement, examination and/or destruction.

4-1-17 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 ordinance.

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

### **CHAPTER 1 LIBRARY SERVICES**

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

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

5-1-2 **LIBRARY TRUSTEES.** The board of trustees of the Cascade Public Library, hereinafter referred to as the board, consists of five (5) members. All board members shall be appointed by the Mayor with the approval of the City Council.

(Code of Iowa, Sec. 392.5)

5-1-3 **QUALIFICATIONS OF TRUSTEES.** All of the members of the board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years and shall not be an employee of the City.

5-1-4 **ORGANIZATION OF THE BOARD.** The organization of the Board shall be as follows:

1. **Term of office.** All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms.

(Code of Iowa Sec. 336.5)

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

(Code of Iowa Sec. 336.6)

3. **Compensation.** Trustees shall receive such compensation for their services as established by resolution of the Council. Trustees not wanting to receive said compensation shall submit a written statement to the City Clerk stating the desire not to be compensated.

4. **Meetings.** The regular meeting of the Library Board shall be the first Tuesday of every month at 4:30 PM at the Cascade City Hall Council Chambers. The public meeting shall be video recorded and broadcasted on the Cascade Local Access Channel.

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

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

(Code of Iowa Sec. 336.8(1))

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

(Code of Iowa Sec. 336.8(2))

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

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

(Code of Iowa Sec. 336.8(3))

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

(Code of Iowa Sec. 336.8(4))

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

(Code of Iowa Sec. 336.8(5))

7. To authorize the use of the library by non-residents of the City and to fix charges therefore unless a contract for free service exists.

(Code of Iowa Sec. 336.8(6))

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

(Code of Iowa Sec. 336.8(7))

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

(Code of Iowa Sec. 336.8(8))

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

(Code of Iowa, Sec. 336.8(9))

11. To keep a record of its proceedings.

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

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

(Code of Iowa Sec. 336.17)

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

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

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

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

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

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

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition

of the library, the number of books added thereto, the number circulated, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

**5-1-10 INJURY TO BOOKS OR PROPERTY.** It is unlawful for a person willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the Library.

**5-1-11 NOTICE POSTED.** There shall be posted in clear public view within the Library notices informing the public of the following:

1. Failure to Return. Failure to return to the Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

2. Detention and Search. Persons concealing Library materials may be detained and searched pursuant to law.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 1 MOBILE HOME REGULATION**

6-1-1	Definitions	6-1-5	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes		
6-1-3	Location of Manufactured Homes	6-1-6	Traffic Code Applicable
6-1-4	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-7	Building Requirements
		6-1-8	Mobile Home Hookups

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

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

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

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

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

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

(Code of Iowa, Sec. 435.1(5))

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

(Code of Iowa, Sec. 435.1(6))

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

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

6-1-2     **LOCATION OF MOBILE HOMES.** All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile

homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 LOCATION OF MANUFACTURED HOMES. Nothing herein shall disallow the siting of a proposed residential structure solely because the proposed structure is a manufactured home.

Manufactured homes shall be allowed under the same zoning requirements as site-built housing, and the City may allow siting of manufactured homes which otherwise comply with standards imposed for site-built housing, provided that any manufactured home must comply with installation standards prescribed by the manufacturer pursuant to 42 USC 5404. Nothing herein shall be construed to impose standards upon any manufacturer, distributor or retailer in respect to the design, construction or safety of any manufactured home, and no City Building Code requirements shall be enforced which are different from any federal regulations pursuant to 42 USC 5403 which are applicable to manufactured homes.

1. Foundation. The foundation of any manufactured home shall be a permanent frost free foundation except to the extent the manufacturer's specifications require otherwise. All manufactured homes must be made visually compatible with surrounding residential structures.

2. Zoning Requirements. All other zoning requirements, including but not limited to those relating to minimum square footage requirements and minimum dimension requirements applicable in R-1 or R-2 zoning, transportation, water, sewer, or other land development requirements shall apply to manufactured homes to the same extent as to site-built homes.

3. Zoning Amendments:

a. Chapter 165, R-1, A, is amended as follows:

“Statement of Intent. The "R-1" Single-Family District is intended to accommodate low density, single-family dwellings **which shall be at least 1000 square feet in size, which shall be at least 24 feet in width and which are traditional site-built construction or manufactured construction comporting with 42 U.S.C. § 5403 and having permanent foundation systems which are visually compatible with surrounding residential structures** and related recreational, religious, and educational facilities normally required to service the residents within the district. Low density residential areas shall be protected from higher density residential development and from the encroachment of incompatible uses.”

b. Chapter 165, R-2, A is amended as follows:

“Statement of Intent. The "R-2" Mixed Residential District is intended to accommodate moderate density developments which may include a variety of dwelling types ranging from single-family to or-family residences **wherein each dwelling unit, or unit within each multi-family structure, is at least 1000 square feet in size, is at least 24 feet in width and which shall be traditional site-built construction or manufactured construction comporting with**

**42 U.S.C. § 5403 and having permanent foundation systems which are visually compatible with surrounding residential structures.”**

(Ord. 11-16, Passed July 25, 2016)

**6-1-4 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS.** The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Application for the permit shall include:

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

**6-1-5 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 seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

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

**6-1-7 BUILDING REQUIREMENTS.** All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement.

(Code of Iowa, Sec. 435.26)

**6-1-8 MOBILE HOME HOOKUPS.** A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by city officials and the mobile home dealer shall pay an inspection fee of \$\_\_\_\_\_. No additional permits shall be required.

(Code of Iowa, Sec. 322B.3)

\*Editor's note. The section in parenthesis should be included at the time the section is first adopted and not during a recodification. In other words, do not add this language to Ordinances already in effect unless you know the exact date the chapter went into effect..

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 2 UTILITIES - SANITARY SYSTEM**

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

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

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

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

(IAC 567-69.3(1))

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

(IAC 567-69.3(1))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

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

(IAC 567-69.3(3))

#### SERVICE OUTSIDE THE CITY

The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the council

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

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

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

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

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa

and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 1,500 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

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

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

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

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

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

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

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

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Cascade and deposited with the City Clerk a corporate surety in the sum of one thousand dollars (\$1,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Cascade pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Cascade and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years except that on such expiration it shall remain in force as to all penalties, claims and demands that

may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards. In absence of provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

#### Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification for Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

### Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

### Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

(3) Minimum velocity: 2.50 feet per second with sewer half full.

(4) Deviations: any deviation in alignment or grade shall be made only with written approval of the Superintendent and shall be made only with properly curved pipe and fittings.

Pipe Specifications. Building sewer pipe shall be free from flaws, splits or breaks. Materials shall be as specified in Division 4 of the State Building Code or the City plumbing regulations.

Jointing. Fittings, type of joint and jointing material shall be commensurate with the type of pipe used, subject to the approval of the Superintendent.

Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or verified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area

adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than drainage into the sanitary sewer.

**INTERCEPTORS REQUIRED.** Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

**Design and Location:** All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

**Construction Standards.** The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

**Maintenance.** All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**Backflow Preventer Required.** All new construction, repair or reconfiguration of the sanitary sewer system in a structure requires the installation of a sewer backflow preventer installed downstream of all drains.

**Sewer Tap.** Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent direction if such connection is approved.

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

12-1 Abatement of Violations. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right of way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected at the owner's expense within thirty (30) days after date of official notice from the council of such violation. If not made within such time the council shall in addition to other penalties herein provided have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

15. Connection Charge. Before any permit is issued and connection made, a connection charge shall be paid to the City in accordance with the following:

a. East Industrial Park Area. In the property described below, the connection charge is \$2,000.00. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below but to all connections to the sewer mains or any extension to the sewer mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if a determination is made by the City that the requested hookup will place an unreasonable burden on the sewer mains. The East Industrial Park Area is described as follows:

Part of Lot 1 of Lot 1 of Lot 1 of Lot 4 of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), Lot 1 of Lot 1 of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), and the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), all in Section 31; Lot 1 of Lot 1 of Lot 1 and Lot 1 of Lot 2 of Lot 1 of Lot 1 of Section 32; and Lots 1, 2, 3, 4, 5 and 6 of Beck Bros. Industrial Subdivision No. 1, all in Township 87 North Range 1 West of the Fifth P.M., Dubuque County, Iowa.

b. Johnson Street NW. In the property described below, the connection charge is \$2,000. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below, but to all connections to

the sewer mains or any extensions to the sewer mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if the City makes a determination that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The Johnson Street NW area is described as follows:

Lot-1 of Breitbach Addition, and Lot-2 of Breitbach Addition that portion West of the North Fork Maquoketa River.

c. 6th Avenue SE. A connection charge of \$15.26 per linear foot of lot frontage shall be required for all 6th Avenue SE properties between Madison Avenue and Delong Avenue.

d. Other Areas. The connection charge in all other areas is \$250.00. This fee applies to each and every sixty-foot lot. Each additional foot of lot frontage shall require the payment of an additional fee of \$4.17 per foot.

#### 6-2-4-1 SPECIFICATIONS FOR SEWER SERVICE LINES

Purpose. This chapter governs the construction of new sewer service lines and the replacement of existing sewer service lines in the city.

Utility Locations. Prior to beginning excavation, the contractor shall notify all utility companies of the location of the excavation work and request field location of their facilities. The contractor shall exercise care in excavating near all utilities or service connections to these utilities. They shall be protected, supported and maintained in service or restored to the condition in which they were found. Where such utilities cannot be replaced so as to occupy their original location, they shall be relocated by the respective utility company with the cooperation and assistance of the contractor. In the case of drain tile or sewers, the contractor shall relocate such facilities under the direction of the City.

Trench Excavations. Excavation may be carried on by any reasonable method preferred by the contractor which shall insure systematic progress without danger to the completed work or the private or public property adjacent to the work. Whenever the contractor shall excavate below the grade of the sewer service line, they shall backfill the trench to grade with selected sand tamped in place.

Sewer Service Taps. All service taps shall be performed by Sewer Department personnel. They shall be located at the ten o'clock or two o'clock position on the circumference of the pipe. No taps shall be made less than twelve inches from a joint and never directly on top of the main. Taps shall be a minimum of twelve inches apart.

Service Lines Sewer Saddle. On clay tile or P.V.C. sewer mains, a sewer saddle is required and type shall be determined by the City Superintendent. A larger saddle will be needed if the sewer main diameter is larger. A minimum of one 5-gallon bucket of approved mortar mix is to be packed around and underneath the saddle and under the sewer main.

Sewer Service Pipes. Service pipe shall be P.V.C. Schedule 40 or clay tile. The diameter shall be 4-inch. If a larger diameter pipe is needed it must be approved by the Superintendent before the contractor can proceed with the project. A 6-inch service line shall only be connected to an 8-inch or larger main. A service line of 8-inch diameter or larger shall require a manhole at the connection.

Sewer Service Caps. Service caps shall be 4-inch Schedule 40, cemented to end of stub-in.

Inspection. All material found during the progress of the work to have cracks, flaws or other defects shall be rejected. All defective materials furnished by the contractor shall be promptly removed by the contractor from the site. No connections, replacements or cut-offs shall be covered or backfilled until inspection and approval have been completed. Contractors shall call the Sewer Department for inspection prior to any backfilling in the city right-of-way. Work shall be uncovered for inspection at the order of the Superintendent and shall be in full view from above the ditch, prior to backfilling.

Backfill Material. All backfill material shall be subject to the prior approval of the city. If, in the opinion of the city, the material excavated constituted unsuitable backfill, the contractor shall provide, unless otherwise stated, at the contractor's own expense, acceptable backfill material. No frozen material shall be used for backfilling. All surplus excavated material which is not used in backfilling shall be loaded and disposed of by the contractor at the contractor's own expense.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. Storm Water. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

a. Storm water conducted from roofs or other impervious areas shall be dispersed entirely upon the grounds of the owner of the contributing property or it shall be drained or conducted into ditches, storm drains or gutters where available on public property or easements legally useable for that purpose, or into public streams. No storm water shall be purposely directed onto a neighboring property.

b. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, including interior and exterior foundation drains, downspouts, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer or combined sewer.

c. Storm water and all other unpolluted water shall be discharged to a storm sewer, except that unpolluted cooling or process water shall only be so discharged upon approval by the

Superintendent. The Superintendent may also approve discharge of unpolluted water into a natural outlet or a combined sewer, provided the discharge complies with applicable state and federal regulations.

d. The City Engineer is authorized to grant an exemption from the provisions of this section to permit the connection of downspouts into a combined sewer or to permit any water to be discharged into a combined sewer after written application is made for an exemption. A written permit shall be issued granting the exemption if, in the opinion of the City Engineer:

(1) A reasonably available absorption area is not present for the water;

(2) Allowing the downspout to discharge onto the ground, sidewalk, street or alley will create a hazardous or unsatisfactory condition or the failure to permit the discharge of water as applied for would create a hazardous or unsatisfactory condition; or

(3) Disconnection from the sewer would require major structural alteration.

(1999 Code, § 97.01) Penalty, see § 53.99

## 2. Illegally Discharged Storm Water.

a. In the event it is determined that storm-water, surface water, water from downspouts or any water is illegally discharged into any sanitary sewer or combined sewer in violation of Chapter 97.01, the city shall serve a written notice upon the person responsible for the illegal discharge, the owner of the property, and any tenant occupying the property ordering the removal of the illegal connection or discharge. The notice shall be signed by the City Engineer or an authorized representative and shall allow 15 calendar days for the removal of the illegal connection or discharge. Said notice will be served by certified mail, return receipt requested, or by personal service, upon the responsible person, owner and tenant. The notice shall provide for a right to a hearing before the City Council on the order to remove. Any person requesting a hearing before the City Council must submit a written request to the City Administrator within 15 calendar days after receipt of the order to remove. Failure to submit said request within 15 calendar days after receipt of the order to remove shall constitute a waiver of the right to a hearing and the right to any appeal. The removal of the illegal connection or discharge requires the disconnection of any pipe carrying the prohibited discharge to the sewer system either at ground level or underground and the capping or blocking of the remaining pipe so as to prevent any water from entering the sewer system. The City shall have the prerogative to inspect and approve any removal.

(1) In the event the owner does not remove the illegal connection or discharge and does not receive an exemption, the owner shall be charged a surcharge based on roof area as set forth in the following schedule:

<b>Roof Area</b>	<b>Monthly Surcharge</b>
<b>Less than 3,000 square feet</b>	<b>\$15</b>
<b>3,000 square feet to 4,999 square feet</b>	<b>\$30</b>
<b>5,000 square feet to 9,999 square feet</b>	<b>\$50</b>

<b>10,000 square feet and up</b>	<b>\$100</b>
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(2) There shall be one surcharge per property, regardless of the number of downspout connections. The City Engineer shall provide the Clerk with a current list of buildings with downspout connections. The surcharge shall be part of the sewer service bill and collected in the same manner.

(3) Nothing in this section shall preclude or abridge such other legal rights the City may have to enjoin or deter illegal storm water discharge. In the event that any person in violation of this section fails to comply with the terms of this section after notice provided for herein and following any requested hearing as provided for herein, the City may file an action in the District Court to obtain injunction against continued violation and any other appropriate relief allowed by law.

(Ord. 5-17, Passed July 27, 2017)

3. Surface waters exception. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

4. Prohibited Discharges. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

c. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

d. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

5. Restricted Discharges. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

a. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

b. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

c. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

d. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( $\frac{1}{2}$ ) inch in any dimension.

e. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

f. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at

the sewage treatment works exceeds the limits established by the Superintendent for such materials.

g. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.

h. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

i. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

j. Unusual Wastes. Materials which exert or cause:

1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

2) Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

3) Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

4) Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

k. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

l. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

m. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

6. Restricted Discharges - Powers. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5 and which in the judgment of the Superintendent may have

a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

a. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

b. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

c. Controls Imposed. Require control over the quantities and rates of discharge; and/or

d. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 5 Utilities - Billing Charges.

7. Special Facilities. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

8. Control Manholes. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. Testing of Wastes. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty- four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

10. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the

Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

11. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

12. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-2-6 PROTECTION FROM DAMAGE.

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

(Code of Iowa, Sec. 716.1)

#### 6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection,

observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### 6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3 Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 3 UTILITIES - WATER SYSTEM**

#### **WATER SYSTEM**

- 6-3-1 Enforcement
- 6-3-2 Adoption of State Plumbing Code
- 6-3-3 License Required
- 6-3-4 Mandatory Connections
- 6-3-5 Permit
- 6-3-6 Water Supply Control
- 6-3-7 Making the Connection
- 6-3-8 Connection Charge
- 6-3-9 Excavations
- 6-3-10 Inspection and Approval
- 6-3-11 Completion by the City
- 6-3-12 Water Meter Testing
- 6-3-13 Responsibility for Water Service Pipe
- 6-3-14 Other Regulations

#### **WATER METERS**

- 6-3-15 Purpose
- 6-3-16 Water Use Metered
- 6-3-17 Fire Sprinkler Systems-Exception
- 6-3-18 Location of Meters
- 6-3-19 Meter Setting
- 6-3-20 Meter Costs

- 6-3-21 Meter Repairs
- 6-3-22 Right of Entry
- 6-3-23 Second Water Meter

#### **SPECIFICATIONS FOR WATER SERVICE LINES**

- 6-3-24 Purpose
- 6-3-25 Service Interruptions
- 6-3-26 Utility Locations
- 6-3-27 Trench Excavation
- 6-3-28 Water Service Taps
- 6-3-29 Operation of Valves and Hydrants
- 6-3-30 Water Used
- 6-3-31 Corporation Stop
- 6-3-32 Service Lines Tapping Saddle Clamps
- 6-3-33 Water Service Pipe
- 6-3-34 Curb Stop
- 6-3-35 Curb Stop Blocking
- 6-3-36 Curb Box
- 6-3-37 Inspection
- 6-3-38 Backfill Material
- 6-3-39 Compaction of Excavated Area
- 6-3-40 Wellhead Protection

#### **6-3-41 Private Wells**

#### **WATER SYSTEM**

6-3-1 **ENFORCEMENT.** The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

6-3-2 **ADOPTION OF STATE PLUMBING CODE.** The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code.

6-3-3 **LICENSE REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefore or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

6-3-4 **MANDATORY CONNECTIONS.** All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 **PERMIT.** Before any person makes a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the Superintendent. The Superintendent shall sign and issue the permit and state the time of issuance, if the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this chapter and require that the work be stopped. The property owner shall pay a flat fee of twenty-five dollars (\$25.00) upon the submission of the application for the water permit for use of City water for a period not to exceed thirty (30) days from the date that the owner connects to City water services to the date that the water meter is installed. The owner shall notify the City Administrator not less than thirty (30) days after receipt of the permit that the connection to the City water meter is ready for inspection by the Superintendent. This fee will be included on the first water bill.

(Ord. 42-13, Passed August 26, 2013)

6-3-6 **WATER SUPPLY CONTROL.** The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent.

The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-7 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

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

6-3-8 CONNECTION CHARGE. Before any permit is issued and connection made, a connection charge shall be paid to the City in accordance with the following:

1. East Industrial Park Area. In the property described below, the connection charge is \$2,000.00. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below but to all connections to the water mains or any extension to the mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if a determination is made by the City that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The East Industrial Park Area is described as follows:

Part of Lot 1 of Lot 1 of Lot 1 of Lot 4 of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), Lot 1 of Lot 1 of the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), and the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>), all in Section 31; Lot 1 of Lot 1 of Lot 1 and Lot 1 of Lot 2 of Lot 1 of Lot 1 of Section 32; and Lots 1, 2, 3, 4, 5 and 6 of Beck Bros. Industrial Subdivision No. 1, all in Township 87 North Range 1 West of the Fifth P.M., Dubuque County, Iowa.

2. Johnson Street NW. In the property described below, the connection charge is \$2,000. Provided, however, if connection is made to both the water system and the sewer system, the \$2,000.00 connection charge shall cover both connections. Said connection charge shall apply not only to connections made in the property specifically described below, but to all connections to the water mains or any extensions to the water mains. The City may determine what connections will be made under this section and connections may be denied, or an additional connection fee negotiated, if the City makes a determination that the requested hookup will place an unreasonable burden on the water and/or sewer mains. The Johnson Street NW area is described as follows:

Lot-1 of Breitbach Addition, and Lot-2 of Breitbach Addition that portion West

of the North Fork Maquoketa River.

4. Other Areas. The connection charge in all other areas is \$250.00. This fee applies to each and every sixty-foot lot. Each additional foot of lot frontage shall require the payment of an additional fee of \$4.17 per foot.

6-3-9 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-3-11 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

6-3-12 WATER METER TESTING. The Superintendent of Public Works or their designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge of \$100.00.

(Ord. 48-14, Passed May 27, 2014)

### 6-3-13 RESPONSIBILITY FOR WATER SERVICE PIPE.

1. Installation. All costs and expenses incident to the installation and connection of the water service pipe from the curb stop to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of said water service pipe.

The cost to repair the water service pipe from the city water main to the curb box and from the curb box to the residence shall be paid by the property owner 100%.

(Ord 1-18, Feb 12, 2018)

### 6-3-14 OTHER REGULATIONS.

1. Abandoned Connections. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely watertight.

2. Tapping Mains. All taps into water mains shall be made by or under the direct supervision of the Superintendent in accord with the Specifications for Water Service Lines section in 6-3 and the following:

a. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.

b. Sizes of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order.

c. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.

d. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

3. Installation of Water Service Pipe. Water service pipes from the main to the meter setting shall be type K copper tubing. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

4. Failure to Maintain. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

5. Curb Stop. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent.

6. Interior Stop and Waste Cock. There shall be installed a shut-off valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

7. Shutting Off Water Supply. After following the procedures set out in Section 6-5-5, the Superintendent may shut off the supply of water to any customer because of any substantial violation of this chapter, or valid regulation under 2-3-10 that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

8. Operation of Curb Stop and Hydrants. It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

9. Backflow Valves. All new construction, repair or reconfiguration of the water system in a structure requires the installation of a dual check valve backflow preventer. All such installation shall be in accordance with the Uniform Plumbing Code.

## WATER METERS

6-3-15 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

6-3-16 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by a plumber.

6-3-17 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

6-3-18 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing. In multiple family buildings, the meters shall be installed in one room with a central location in the building.

6-3-19 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a globe type valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

6-3-20 METER COSTS. The full cost of any meter larger than a ¾-inch meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

6-3-21 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

6-3-22 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

6-3-23 SECOND WATER METERS. Each property owner in the City may have a second water meter installed to measure water that is not discharged into the sanitary sewer system, in accordance with the following:

1. The Council must approve the installation of the second water meter prior to installation.
2. The property owner shall pay for the second water meter, a remote reading device and for all costs associated with connecting the water meter to the property.

The property owner shall install a back flow valve.

When meter and items are installed, the city will complete an inspection ensuring all is installed correctly.

An annual inspection by the city is required with a fee of \$30.00 being charged to persons with a second water meter.

3. The property owner shall pay the monthly minimum for water service to the second water meter for the entire year and not for just the months that the property owner may plan to use the second meter. In addition, the property owner shall pay for water usage at the current rates for all water used.

z(ORD 12-17, Oct 23, 2017

## SPECIFICATIONS FOR WATER SERVICE LINES

6-3-24 PURPOSE. This chapter governs the construction of new water service lines and the replacement of existing water service lines in the City.

6-3-25 SERVICE INTERRUPTIONS. In the event the contractor's operation interrupts service to the Water Department's customers and they do not promptly restore such services, the

Department reserves the right to enter the work and restore the service with Department personnel. The labor and machine time required for restoration of service shall be charged to the contractor.

6-3-26 UTILITY LOCATIONS. Prior to beginning excavation, the contractor shall notify all utility companies of the location of the excavation work and request field location of their facilities. The contractor shall exercise care in excavating near all utilities or service connections to these utilities. They shall be protected, supported and maintained in service or restored to the condition in which they were found. Where such utilities cannot be replaced so as to occupy their original location, they shall be relocated by the respective utility company with the cooperation and assistance of the contractor. In the case of drain tile or sewers, the contractor shall relocate such facilities under the direction of the City. No excavation shall be made near any water main until Water Department personnel are on hand to shut off the main and authorize the contractor to proceed. The contractor shall not operate valves on existing water mains.

6-3-27 TRENCH EXCAVATION. The contractor shall excavate all trenches to provide a minimum cover of five and one-half (5.5) feet above the top of the water service line. Excavation may be carried on by any reasonable method preferred by the contractor which shall insure systematic progress without danger to the completed work or the private or public property adjacent to the work. Whenever the contractor shall excavate below the grade of the water service line, they shall backfill the trench to grade with selected sand tamped in place.

6-3-28 WATER SERVICE TAPS. Corporation stops shall be located at the ten o'clock or two o'clock position on the circumference of the pipe unless this would result in any part of the service line attached to the corporation to have less than five feet of cover. Where five feet of cover is not available, the location of the corporation may be rotated downward, but no lower than the mid-point of the main to be tapped. Water Department personnel shall make all taps on all department water mains.

6-3-29 OPERATION OF VALVES AND HYDRANTS. The operation of all valves and hydrants shall be under the control of the Water Department at all times. The contractor shall notify the Department when the contractor is ready for a valve or hydrant to be operated and this work shall be performed by employees of the Department.

6-3-30 WATER USED. All water required for flushing, testing or sterilization of service lines will be furnished by the Water Department at no cost to the contractor. The contractor will be allowed to use City water at regular meter rates for all other purposes, but before any water is used, the contractor shall notify the Water Department office. A suitable meter will be provided by the Department upon payment of the standard charge. No water shall be used other than that water required for the items listed above without a meter. Opening and closing of the fire hydrants shall be performed only by an authorized employee of the Water Department.

6-3-31 CORPORATION STOP. Corporation stop shall be a Mueller H-15000 or A.Y. McDonald 4701 with a flared copper outlet. The corporation stops shall be limited to ¾-inch.

6-3-32 SERVICE LINES TAPPING SADDLE CLAMPS. Tapping saddles shall be SMITH-BLAIR Model 317 and of the pipe size of the water main, minimum 4-inch. Saddle size shall be the same as the water main.

6-3-33 WATER SERVICE PIPE. Service pipe shall be Type K copper. The diameter shall be ¾-inch.

6-3-34 CURB STOP. Curb stop shall be Mueller H-15201 with a 1½-inch Minneapolis pattern on the top of the valve. Flared copper inlet and outlet, minimum diameter ¾-inch.

6-3-35 CURB STOP BLOCKING. A concrete block shall be placed under the curb stop against unexcavated earth. The concrete block shall be 4" x 8" x 16". All curb boxes shall be plumb so Water Department personnel can place their wrenches on the valve.

6-3-36 CURB BOX. Curb box shall be constructed of five feet of 1½-inch galvanized pipe threaded with coupling to be screwed into the top of curb stop. Three feet of 2-inch galvanized pipe shall be placed over the 1½-inch section of pipe and is to be level with the ground surface of the property when the job is completed. The curb box lid shall be threaded into the 1½-inch pipe and shall be A. Y. McDonald Model #5623L, 1½-inch Brass Pentagon Plug (#4511-204). The word "WATER" in raised letters shall be on the top. When using the Mueller H-15201 curb stop, a 1½" x 2" reducer coupling is needed, which screws on to the curb stop.

6-3-37 INSPECTION. All material found during the progress of the work to have cracks, flaws or other defects shall be rejected. All defective materials furnished by the contractor shall be promptly removed by the contractor from the site.

6-3-38 BACKFILL MATERIAL. All backfill material shall be free from cinders, ashes, refuse, vegetable or organic material, boulders or other material that in the opinion of the Superintendent is unsuitable. From three feet above the top of the pipe, the backfill material may contain stones up to four inches in their largest dimension.

6-3-39 COMPACTION OF EXCAVATED AREA. Backfill material should be compacted every nine inches for the first eighteen inches and every twelve inches thereafter to a point twelve inches below the surface. A crushed stone (Class A) ¾-inch Road Rock base material, eight inches thick, shall be compacted into the trench.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

#### 6-3-40 WELLHEAD PROTECTION REGULATIONS

Purpose. The purpose of this chapter is to institute land use regulations and restrictions to protect the city's water supply and well fields, restrict the location of potential source of

contamination in close proximity to the water supply and to promote public health, safety and general welfare of the residents of the City of Cascade.

Definitions. The following terms are defined for use in the chapters in this code of ordinances pertaining to the Wellhead Protection Regulations.

1. Aquifer means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. Alluvium means sand, clay, ect., gradually deposited by moving water.
3. Contamination means the presence of harmful or deleterious substances in the water supply.
4. Groundwater means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. Hazardous Substances mean those materials specified in Substances Regulated in this chapter.
6. Flow System Boundaries means a delineation criterion that uses groundwater divides, surface water bodies or other hydrologic/physical features to delineate a Wellhead Protection Area.
7. Labeled Quantities means the maximum quantity of chemical as recommended on the label for specific applications.
8. Person means any natural person, individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such jointly or severally.
9. Petroleum Product means fuels (gasoline, diesel fuel, kerosene and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, solvents and other similar products.
10. Pollution means the presence of any substance (organic, inorganic, radiological, or biological) or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.
11. Potable Water means water that is satisfactory for drinking, culinary and domestic purposes meeting current drinking water standards.
12. Primary Containment means the first level of product-tight containment, i.e. the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
13. Public Utility means any utility (gas, water, sewer, electrical, telephone, cable television, ect.) whether publicly owned or privately owned.
14. Secondary Containment means the level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays

under containers, floor curing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be further taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

15. Shallow Well means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.

16. Time Related Capture Zone means the surface of subsurface area surrounding a pumping well(s) that will supply groundwater recharge to the well(s) within some specified period of time.

17. Toxic Substance means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.

18. Transit means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two (2) hours.

19. Water Pollution means the introduction in any surface or underground water or any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human plant, animal fish and other aquatic life or property or that unreasonably interferes with the comfortable enjoyment of life or property or the conduct of business.

20. Well means a pit or hole sunk into the earth to reach a resource supply such as water.

21. Well Field means a tract of land that contains a number of wells for supplying water.

22. Wellhead Protection Zones means zones delineated fixed radii criterion around wellheads within which toxic substances will be regulated to protect the quality of the underground source.

23. Zone of Contribution means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

**SUBSTANCES REGULATED.** The materials regulated by this ordinance shall consist of the following:

1. Substances listed in 40 CFR Section 302.4 List of Hazardous Substance and Reportable Quantities.

2. Substances listed by the Iowa Labor Commission pursuant to Section 898.12 of the Iowa Code (Hazard Chemicals Risks-Right to Know).

3. Substances listed in 40 CFR Section 261, subparts A,B,C, and D Federal Hazardous Waste List.

## MAPS OF ZONES OF INFLUENCE.

1. Maps. Zone of Protection maps and any amendments thereto are incorporated by reference and made part of this ordinance. These maps shall be on file at city hall. At the time of adoption of this ordinance the location of all wells in Cascade supplying potable water to the water service system shall be located on the official Wellhead Protection Map with primary zone, secondary zone and zone or sensitivity indicated.

2. Map Maintenance. The zone of protection maps may be updated on an annual basis. The basis for such an update may include but not limited to the following:

- A. Changes in technical knowledge concerning the aquifer.
- B. Changes in permitted pumping capacity of city wells.
- C. Addition of wells or elimination of existing wells.
- D. Designation of new well fields.

3. Wellhead Protection Zones. The zones of protection indicated on the zone of protection maps are as follows:

A. Primary Protection Zone. The area within the two (2) year time related capture zone of any well supplying potable water to the Cascade water service system.

B. Secondary Protection Zone. The area within the ten (10) year time related capture zone, excluding the Primary Protection Zone of any well supplying potable water to the Cascade water service system.

C. Zone of Sensitivity. The area within the twenty (20) year time related capture zone, excluding the Primary and Secondary Protection Zones from any well supplying potable water to the Cascade water service system.

## RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.

A. Industrial buildings within the City of Cascade provided there is no on-site waste disposal or fuel storage tank facilities associated within this use and the Iowa DNR “separation of distances for wells” for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the City of Cascade.

- B. Playground parks.
- C. Wildlife areas, open spaces.
- D. Lawns and gardens.
- E. Non-motorized trails such as biking, skiing, nature and fitness trails.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental clean up costs and may be subject to fines as specified in this ordinance.

C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, groundwater or surface water within the Primary Protection Zone. Any person knowing of having evidence of a discharge shall report such information to the Wellhead Protection Officer.

#### RESTRICTION WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone. Uses not listed are to be considered prohibited.

- A. All uses listed as permitted in the Primary Protected Zone.
- B. Sewer – residential and commercial.
- C. Above ground storage tanks when in compliant with state fire marshal's regulations.
- D. Basement storage tanks.
- E. Livestock grazing and field cropping activities.

2. Additional Restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs and may be subject to fines specified in this ordinance.

C. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer regardless of their status under EXCEPTIONS section.

#### EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this ordinance.

A. The transportation of any hazardous substance through the well field protection zones provided the transporting vehicle is in transit.

B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.

C. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facility.

D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.

E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.

F. Consumer products located in the home which are used for personal, family or household purposes.

G. The storage and use of hazardous substances as fuel or lubricant to provide auxiliary power for emergency use to the well field provided an enclosed secondary containment system is provided for the hazardous substance.

H. The use of water treatment chemicals connected with the operation of the well or plant.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance exemption is granted by city council.

3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this ordinance by law shall not be subject to the restriction contained herein.

4. All requests for permits or special exceptions in the Cascade Wellhead Protection Zones must be made in writing to the city council. All requests must include a list of all hazardous chemicals (MSDS sheets will be available upon request) to be stored, handled used or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of city council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicated that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

#### DETERMINATION OF LOCATIONS WITHIN ZONES.

1. In determining the location of properties within the zones depicted on the Zone Protection Map, the following rules shall apply:

A. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.

B. For properties having parts lying within more than one (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

#### ENFORCEMENT AND PENALTIES.

1. The water superintendent is designated as the Wellhead Protection Officer unless another person is specifically designated by the city council to supervise the implementation and enforcement of this ordinance.
2. The Wellhead Protection Inspector(s) shall be the water superintendent.
3. No building permit shall be issued which is a violation of the Iowa DNR "Separation Distance From Wells" as modified under Iowa Code as IAC [567] 43.3 (7) Table A. 'Separation Distances' or its replacement, a violation of this ordinance or a source of contamination for a city well.
4. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.
5. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provision and penalties provided therein.

#### INSPECTIONS.

1. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the protection officer or inspector to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.
3. The Wellhead Protection Officer or inspector shall inspect each city well annually and shall maintain an inventory if applicable of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is the Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made to the inspector.

#### NOTICE OF VIOLATION AND HEARING.

1. Whenever the officer or inspector determines that there is a violation of this ordinance, he/she shall give notice thereof in the manner hereinafter provided:

A. A notice of violation shall be in writing, be dated and signed by the officer/inspector, specify the violation(s) and date said violation shall be corrected within ten (10) days of the date on which the inspector issued the notice.

B. Failure of the responsible person(s) to correct the violation within ten (10) days of the date of issue of notice of violation shall result in the following fines: First notice of violation \$1,000.00; Second notice \$5,000.00; Third notice \$10,000.00.

#### INJUNCTIVE RELIEF.

1. If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the wellhead protection zones as indicated on the zone of protection maps, continues to operate in violation of the provisions of this ordinance, the city may file an action for injunctive relief in the court of jurisdiction.

#### 6-3-41 PRIVATE WELLS

PRIVATE WELLS. No person shall install a private drinking or non-drinking water well, as defined in 567 Iowa Administrative Code 135.2, within City Limits, unless a determination has been made by the City Superintendent that it is a closed loop system or the well location is greater than 1,000 feet from where an area of contamination requiring corrective action under Iowa law has been determined to exist. In addition, drinking water wells outside the 1,000-foot restricted area shall not be installed if the building to be served is within 250 feet from an accessible water distribution main owned and controlled by the City

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 4 UTILITIES - REFUSE COLLECTION**

6-4-1	Definitions	6-4-7	Burning of Refuse
6-4-2	Duty to Provide Cans	6-4-8	Open Burning Restricted
6-4-3	Administration	6-4-9	Refuse Other Than Garbage
6-4-4	Storage	6-4-10	Sanitary Landfill
6-4-5	Collections	6-4-11	Anti-Scavenging
6-4-6	Necessity of Permits		

6-4-1     **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Can". Means a container for the storage of garbage or rubbish, which is:

- a. Provided with a handle and tight fitting cover.
- b. Made of non-corrosive material.
- c. Water-tight.
- d. With a capacity of no more than thirty-two (32) gallons.

5. "Nuisance" under this section shall mean an excess of smoke or smell, whereby a nearby neighbor shall have a cause to complain and a reasonable person would find the action to negatively impact neighbors in the vicinity.

(Ord. 51-14, Passed September 8, 2014)

6-4-2     **DUTY TO PROVIDE CANS.** Each person shall provide cans or approved containers for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be in a position readily accessible to the collector.

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

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

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

6-4-4 STORAGE. All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided.

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-4-6 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-4-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

2. This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

3. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-4-8 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site by City employees only, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

(Ord. 51-14, Passed September 8, 2014)

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. (Grass, Leaves and Small Branches) The disposal by open burning of landscape waste originating on premises. All burning must be under constant visual supervision by the owner or owner representative and not create a nuisance to neighbor. The burning of landscape waste produced in clearing, grubbing and construction operations is not permitted. Rubber tires shall not be used to ignite the landscape waste.

(IAC, 567-23.2[3d])

(Ord. 51-14, Passed September 8, 2014)

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources.

(IAC, 567-23.2[3e])

6. Burn Barrels. The open burning of residential waste on the property where such waste is generated, at dwellings of four (4) units or less, provided it does not create a nuisance for nearby properties.

(IAC, 567-23.2[3f] and 567-20.2[455B])

(Ord. 51-14, Passed September 8, 2014)

7. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that written notification is postmarked or delivered to the Director at least ten (10) working days before such action commences. All asphalt roofing and materials containing asbestos shall be removed prior to the training fire.

(IAC, 567-23.2[3g])

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

6-4-9 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the city may proceed to abate such nuisance in accordance with the provisions of Title III, Chapter 2 of this Code or initiating proper action in district court.

6-4-10 SANITARY LANDFILL. The sanitary landfill facilities operated by Dubuque Metropolitan Area Solid Waste Agency is hereby designated as the official agency for the disposal of solid waste produced or originating within the city. City Council by resolution may establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

6-4-11 ANTI-SCAVENGING. It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

(ECIA Model Code Amended in 2017)

Littering Prohibited. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

Open Dumping Prohibited. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation or grading at places other than at a sanitary disposal project.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 5 UTILITIES - BILLING CHARGES**

6-5-1	Utility Defined	6-5-8	Water Rates of Service
6-5-2	Districts	6-5-9	Refuse Collection Rates
6-5-3	Disposition of Fees and Charges	6-5-10	Recycling Materials
6-5-4	Billing for Utility Service	6-5-11	Rate of Sewer Rent and Manner of Payment
6-5-5	Discontinuing Services, Fees	6-5-12	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-5-6	Residential Rental Property		
6-5-7	Customer Guarantee Deposits		

6-5-1     **UTILITY DEFINED.** For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-5-2     **DISTRICTS.** There shall be one sewer and water district which encompasses all of the City of Cascade, Iowa.

6-5-3     **DISPOSITION OF FEES AND CHARGES.** All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-5-4     **BILLING FOR UTILITY SERVICE.** Utility services shall be billed as part of a combined service account, which includes water, sewer, garbage, recycling, electric and gas. The utility bill shall include the charges incurred by the customer for regular services, plus any fees, penalties or previous balance. Utility bills shall be paid monthly.

1.     Utility bills shall be due on the 15th of each month. If the 15th falls on a weekend or holiday, the bill shall be paid on the first business day following the holiday or weekend by 12:00pm.

2.     Customers shall be in receipt of a monthly utility bill by the 25th of each month.

3.     A delinquent notice shall be mailed to all customers not paying the utility bill by the due date, with a 2% penalty added. Delinquent customers shall have 12 days to pay their delinquent bill.

(Ord. 6-17, Passed August 14, 2017)

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

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

a. The Public Works Director, or his or her authorized representative, shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to pay the bill for water on or before the tenth (10th) day after mailing of written notice that the water supply will be shut off. The Utility Manager shall send such notice within forty-eight (48) hours following the delinquent date, or on the first office day following such first day after the delinquent date. When a Sunday or legal holiday intervenes during the notice period, such days shall not be counted. The Utility Manager shall notify each delinquent customer that service will be disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to discontinuance.

If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

If a hearing is requested by noon of the day preceding the shut off the City Administer shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.

(ECIA Model Code Amended in 2017)

b. The Utility Manager shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Administrator by noon on the day preceding the scheduled shut-off date or discontinuance of service."

c. When a hearing is requested by a customer, the City Administer or the designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the City Administrator is final.

2. Lien for Nonpayment.

a. If service is discontinued for nonpayment of fees and charges, a fee of \$25.00 shall be paid to the Utility Manager in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

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

3. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner.

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

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

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

5. There will be no extension of water service after the current billing, unless an extension is preapproved due to extenuating circumstances. The Utility Manager or the authorized representative will determine whether to authorize an extension of time to pay, based on individual circumstances and the customer's payment history. Repeat violators will not be extended past the shutoff date at the discretion of the City.

6-5-6 RESIDENTIAL RENTAL PROPERTY. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges. A City utility may require a deposit not exceeding the usual cost of ninety (90) days of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City utility within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City utility shall return the deposit, within ten days, if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City utility within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

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

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

(ECIA Model Code Amended in 2012)

6-5-7 CUSTOMER GUARANTEE DEPOSITS. There shall be required from every customer not the owner of the premises served a seventy dollar (\$70.00) deposit intended to guarantee the payment of bills for service. The required deposit amount will be waived if the customer provides

a letter of credit from a most recent utility provider that shows twelve (12) months of no delinquency on the account. The City does reserve the right to charge a customer, including the owner of the premises, a deposit. The original amount of the deposit will be refunded to the customer or credited to the customer's account after twelve (12) months of continued service so long as during this twelve (12) month period there has been no delinquency on the account.

(Ord. 13-16, Adopted July 25, 2016)

6-5-8 **WATER RATES OF SERVICE.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Section 6-3. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not. Water shall be furnished at the following monthly rates per property serviced within the City.

(Code of Iowa, Sec. 384.84)

1. **Monthly Meter Charge.** There is imposed for each billing period regardless of actual metered usage during such billing period, a meter charge to each separately metered residential, commercial, industrial premise, directly or indirectly served by a connection to the water system, unless water connection is shutoff by city employees at the curb box. If curb box is defective and inoperable, monthly meter charge will be billed until such time the curb box can be shut off. This charge shall be \$13.33. If water connection cannot be shut off at the curb box due to the water connection providing water to multi-units, the monthly meter charge will be waived. The waiving of this monthly meter charge only applies if the property owner shuts the water off in the basement or at the meter and has a lockable tag added by the City employees.

2. **Water Use Rates.** In addition to the monthly meter charge, there shall be imposed the following water rate charges based on actual metered usage during the billing period, unless water has been shutoff at the curb box or a lockable tag added to the meter or water shutoff in the basement by city employees:

- a. \$2.42 per 1,000 gallons of usage
- b. \$25.00 per 1,000 gallons of usage for occasional or bulk water sales
- c. \$4.84 per 1,000 gallons of usage for water outside the city limits.

3. **Water Reconnection Fee.** When a customer requests to discontinue water service to their property by shutting the curb stop off, a fee shall be charged in the amount of \$25.00 for reconnection.

4. **No Meter Reading; Bill Calculation.** Where a meter has ceased to register or a meter reading could not be obtained, the quantity of water consumed for billing purposes will be based on an average of the prior six months consumption, and the conditions of the water service during the time the meter did not register.

(Ord. 40-13, Passed June 10, 2013)

(Ord. 46-14, Passed April 28, 2014)

(Ord. 3-16, Passed February 22, 2016)

(Ord. 18-16, Passed September 12, 2016)

(Ord. 23-16, Passed October 24, 2016)

(Ord. 28-16, Passed November 28, 2016)  
(Ord. 02-17, Passed March 27, 2017)  
(Ord. 10-17, Sept 11, 2017)

5. Rates Outside the City. Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 6-5-8. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

6-5-9 REFUSE COLLECTION RATES. The City shall charge the following fees for solid waste collection and disposal service, used or available:

1. One or two family houses \$9.00/month
2. Apartments with separate water meters \$9.00/month
3. Apartments when water if furnished by owner \$9.00/month
4. Commercial without dumpsters \$13.25/month

Commercial Dumpster Rates:

1 yard dumpster	\$20.00/month
1 ½ yard dumpster	\$30.00/month
2 yard dumpster	\$40.00/month
3 yard dumpster	\$60.00/month
4 yard dumpster	\$80.00/month
5 yard dumpster	\$100.00/month
6 yard dumpster	\$120.00/ month
8 yard dumpster	\$160.00/month

These fees will be ceased if water is shutoff at the curb box or in the basement or at the meter and has a lockable tag added by the City employees.

(Ord. 09-15, Passed November 23, 2015)  
(Ord. 11-15, Passed November 23, 2015)  
(Ord. 19-16, Passed September 12, 2016)  
(Ord. 23-16, Passed October 24, 2016)

5. Garbage Tote and Fees. The city shall charge \$10.00 per extra tote or replacement tote for customer pick up. The city shall charge \$20.00 per extra tote or replacement tote for city delivery of tote. (Ord 16-19, Dec 16, 2019)

6-5-10 RECYCLING MATERIALS. The City shall charge the following fees for curbside collection of comingled recyclable materials.

1. Residential \$7.50/month
2. Commercial \$9.50/month

These fees will be ceased if water is shutoff at the curb box or in the basement or at the meter and has a lockable tag added by the City employees.

(Ord. 09-15, Passed November 23, 2015)

(Ord. 19-16, Passed September 12, 2016)

(Ord. 23-16, Passed October 24, 2016)

3. Collection Limits. The City shall limit garbage collection as follows:

Residential premises and commercial or institutional units with no dumpster garbage collection limit of one thirty-three (33) gallon garbage container or garbage bag not to exceed sixty-five (65) pounds in weight, per week. Additional garbage shall be placed in garbage bags and tagged with a sticker purchased from the city at a cost of \$2.00 per tag for each additional bag.

Business customers without dumpsters will be limited to two thirty-three (33) gallon containers or garbage bags not to exceed sixty-five (65) pounds in weight, per week. Additional garbage shall be placed in garbage bags and tagged with a sticker purchased from the city at a cost of \$2.00 per tag for each additional bag.

(Ord 11-15, Passed Nov 23, 2015)

4. Recycling Bin and Lid Fees. The City shall charge \$5.00 for a recycling bin and lid combination. Additionally, one recycling bin and lid will be given to any resident of the City of Cascade who has just started utility service.

(Ord. 02-15, Passed March 9, 2015)

9

5. Recycling Tote and Fees. The City shall charge \$10.00 per extra recycling tote or replacement tote for customer pick up. The City shall charge \$20.00 per extra tote or replacement tote for city delivery of tote. (Ord.16-19, Passed Dec 16, 2019)

6-5-11 RATE OF SEWER RENT AND MANNER OF PAYMENT. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. Monthly Meter Charge. There is imposed for each billing period regardless of actual metered water usage during such billing period, a meter charge to each separately metered residential, commercial, industrial premise, directly or indirectly served by a connection to the sewer system, unless water connection is shutoff by city employees at the curb box. If curb box is defective and inoperable, monthly meter charge will be billed until such time the curb box can be shut off. This charge shall be \$15.22. If water connection cannot be shut off at the curb box due to the water connection providing water to multi-units, the monthly meter charge will be waived. The waiving of this monthly meter charge only applies if the property owner shuts the water off in the basement or at the meter and has a lockable tag added by the city employees.

2. Sewer Use Rates. In addition to the monthly meter charge, there shall be imposed the following sewer rate charges based on actual metered water usage during the billing period, unless water has been shutoff at the curb box or a lockable tag added to the meter or water shutoff in the basement by city employees:

a. \$7.16 per 1,000 gallons of usage.

(Ord. 40-13, Passed June 10, 2013)

(Ord. 46-14, Passed April 28, 2014)

(Ord. 3-16, Passed February 22, 2016)

(Ord. 8-16, Passed April 25, 2016)

(Ord. 18-16, Passed September 12, 2016)

(Ord. 23-16, Passed October 24, 2016)

6-5-12 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

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

Special Agreements Permitted. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the council.

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 6 STREET CUTS, EXCAVATIONS**

6-6-1	Excavation Permit Required	6-6-4	Safety Measures
6-6-2	Application for Permit	6-6-5	Backfilling and Restoration
6-6-3	Permit Fees	6-6-6	Minimum Construction Standards

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or paving of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, the person responsible for the refilling of said excavation and restoration of the street or alley surface, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

Utility companies are exempt from the permit application. They shall however comply with all other provision and shall post with the city a yearly bond in the amount of two hundred fifty dollars (\$250.00) to guarantee such compliance.

6-6-3 PERMIT FEES. For streets or alleys with asphalt or concrete surface 7 years old or less, the bond/deposit shall be \$3,000.00. Upon restoration of the street surface said bond/deposit shall be returned to the applicant less any costs incurred by the city.

For streets or alleys with an asphalt or concrete surface over 7 years of age and for all other street surfaces the bond/deposit shall be \$250.00. Upon restoration of the street surface said bond/deposit shall be returned to the applicant less any costs incurred by the city.

Insurance Required. Each applicant shall file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

Bodily Injury \$100,000.00 per person; \$250,000.00 per accident

Property Damage \$100,000.00 per accident.

All costs and expenses incident to the excavation shall be borne by the permit holder/property owner. The permit holder/owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by such excavation.

6-6-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-6-5 BACKFILLING RESTORATION AND INSPECTION. All work shall be subject to inspection by the city. Backfill should not be deemed completed nor resurfacing of any improved street or alley surface begun until such backfill is inspected and approved by the city. The permit holder/property owner shall provide the city with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight (48) hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating.

6-6-6 MINIMUM CONSTRUCTION STANDARDS. Streets within the City shall be constructed in accordance with industry standards, including but not limited to at least the following minimum standards.

1. Protection of Existing Utilities. Contractors shall locate existing underground utilities in the work area before the commencement of construction activities and protect the same from damage or interference during construction.

2. Proof Roll Required. On all road construction, repair, or replacement projects, a proof roll test shall be performed with a dump truck loaded to the maximum single axle legal gross weight of 20,000 pounds or the maximum tandem axle legal gross weight of 34,000 pounds. During the roll test, trucks shall be operated at less than 10 miles per hour. Roll tests shall include at least one pass for each 12 feet of roadway width. Compacted material in the subgrade receiving

fill shall be considered unstable if the surface shows yielding by examination of soil wave from the loaded tires or if the compacted material develops ruts more than 2 inches in depth. If soft or yielding areas are observed, the unstable material shall be removed and replaced with 3 inch breaker run or Macadam stone meeting Iowa DOT gradation 13, per article 4109.02, compact material. Additional roll tests shall be performed until appropriate compaction is achieved.

3. Suitable Material. Material used in fill areas, under the subgrade, and in the construction of embankments shall meet the following minimum requirements:

- a. Density of 95 pcf or greater per AASHTO T 99.
- b. Plasticity index less than 30 per AASHTO M 145.
- c. Liquid limit less than 50 per AASHTO M 145.
- d. For soils placed below seasonal high groundwater, granular soil shall be used.

4. Select Subgrade Materials. The select subgrade consists of the top 12 inches immediately below the rock base of the pavement. All select subgrade materials shall be approved by the City or the City Engineer before placement. Approval of select subgrade materials shall be based on AASHTO M 145. Additionally:

- a. Cohesive soils must meet all of the following requirements:
  - (1) 45% or less silt size fraction.
  - (2) Density of 110 pcf or greater according to ASTM D 698 or AASHTO T 99 (standard Proctor).
  - (3) Plasticity index greater than 10.
  - (4) A-6 or A-7-6 soil of glacial origin.
- b. Granular soil shall meet all of the following requirements:
  - (1) 15% or less silt or clay.
  - (2) Density of 110 pcf or greater according to ASTM D 698 or AASHTO T 99 (standard Proctor).
  - (3) Plasticity index less than 3.
  - (4) A-1, A-2, A-3 (0). Crushed stone, crushed Portland cement concrete, clean gravel, or clean sand.

5. Site Preparation. Site preparation shall be completed prior to commencement of other earthwork activities. Site preparation shall include removing or stripping off the upper soil layer(s) from the existing ground and removal of trees, brush, windfalls, logs, roots, and stumps. All organic materials, topsoil, and stones greater than 3 inches shall be removed. Areas receiving fill should be scarified to a minimum depth of 6 inches and compacted to a minimum 95% of the maximum dry density per modified Proctor, ASTM D1557. A certified testing laboratory shall be required to perform soil and density testing in areas receiving 12 inches or more of fill. Three tests across the roadway section shall be required per 100 lineal foot of roadway before placing fill. Testing documentation shall be provided to the City upon request. Additionally, the compacted materials in areas receiving 12 inches or more of fill shall receive a proof roll test observed by the City and/or the City Engineer.

6. Earthwork Grading. Earthwork grading shall be performed in accordance with Iowa DOT specifications 2102 and 2107. If fill is required, suitable material shall be placed in successive uniform horizontal layers not exceeding 9 inches in depth over the entire area before compaction. Each layer of fill must shall be compacted to at least 95% of the maximum dry density per modified Proctor, ASTM D1557. A certified testing laboratory shall be required to perform soil and density testing in areas receiving 12 inches or more of fill. Three tests across the roadway section shall be required per 100 lineal foot of roadway for each 12 inches of vertical grade. Testing documentation shall be provided to the City upon request.

7. Subgrade Preparation. Streets and roadways shall be constructed on 12 inches of stabilized subgrade, following site preparation and earthwork grading activities, in accordance with Iowa DOT specifications 2109 and 2113. The prepared subgrade shall only consist of suitable or select subgrade materials. All other materials not defined as either select or suitable shall be considered unsuitable and shall not be used.

Twelve (12) inches of subgrade, uniform in composition, shall be installed under new pavement or rock subbase to the proposed roadway width plus 3 feet on each side. Select materials shall be used unless granular stabilization materials or subgrade treatment is specified. Additionally:

a. Subgrade compaction in fill areas shall require:

- (1) Construction in two 6 inch lifts.
- (2) Moisture content within a range of optimum moisture to +/-3%.
- (3) Soil at least 98% of the maximum dry density per modified Proctor, ASTM D1557.
- (4) Verification by three soil density tests per 100 lineal foot of roadway. Testing documentation shall be provided to the City upon request.
- (5) Verification by proof roll test observed by the City Engineer or designee.

b. Subgrade compaction in cut areas shall require:

- (1) Excavation and stockpiling of the top 6 inches of subgrade.
- (2) Scarifying and compacting the bottom 6 inches of subgrade.
- (3) Replacement and compacting of the top 6 inches of subgrade.
- (4) Moisture content within a range of optimum moisture to +/-3%.
- (5) Compacting subgrade to at least 98% the maximum dry density per modified Proctor, ASTM D1557.
- (6) Three soil density tests per 100 lineal foot of roadway. Testing documentation shall be provided to the City upon request.
- (7) Proof roll test observed by the City and/or the City Engineer.
- (8) Aggregate Base. Streets and roadways shall be constructed on a compacted aggregate base extending the full roadway width plus 3 feet on each side in accordance with Iowa DOT specifications 2111 and 412. Portland cement concrete pavement shall be constructed on 10 inches of compacted modified subbase meeting Iowa DOT gradation 14 per article 4109.02. Hot mix asphalt pavement shall be constructed on 12 inches of 3 inch breaker run or Macadam stone meeting Iowa DOT gradation 13 per article 4109.02 and 6 inches modified subbase meeting Iowa DOT gradation 14 per article 4109.02
- (9) Longitudinal Sub-drain. Streets and roadways shall be constructed with longitudinal 4 inch sub-drain along the outside edge of the pavement the entire length of the roadway wherever possible. Installation of sub-drain shall be in accordance with Iowa DOT specification 2502. Sub-drain pipe shall meet Iowa DOT specification 4143. Engineering fabric shall meet Iowa DOT article 4196.01.B.2. Porous backfill shall be clean granular material meeting Iowa DOT gradation 12a per article 4109.02.1 or similar. Sub-drain shall be approximately 6 inches behind each curb extending the entire length of the roadway beginning at the outlet (ditch, storm sewer, etc.) and proceed continuously upgrade. The sub-drain trench shall be a minimum of 12 inches and a maximum of 36 inches below the road subbase. The sub-drain trench shall be lined with engineering (filter) fabric prior to the placement of the porous backfill and the pipe. The fabric shall have a complete overlap at the top of the trench the full width of the trench. The sub-drain pipe shall be placed 2 inches above the bottom of the trench. When the sub-drain outlets into a ditch or similar, a ten foot piece of 6 inch corrugated metal pipe meeting Iowa DOT specification 4141 or C900 PVC pipe shall be installed with a rodent guard.
- (10) Residential Streets. Residential streets shall be surfaced with 6 inch Portland cement concrete or 5 inch hot mix asphalt. Portland cement concrete pavement, curb and gutter, and sidewalks, and driveways shall be constructed in accordance with Iowa DOT specifications 2301, 2316, 2511, 2512, 2515, and 2516. Hot mix asphalt roadway shall be constructed with a minimum of 2 lifts and in accordance with Iowa DOT specification 2303 and 2317. The minimum residential street width shall be 31 feet from back-of-curb to back-of-curb. Pavement cross slope

shall be a minimum 2% and a maximum 3%. The curb height shall be 6 inches above the gutter except at driveways where the curb height shall be a minimum of 2 inches and a maximum of 3 inches. The curb shall be integral to the Portland cement pavement. A 30 inch Portland cement curb and gutter section shall be required for Hot Mix Asphaltic pavement. Construction shall accommodate curb ramps in conformance with ADA and Iowa DOT specifications and details.

(11) Pavement Materials. Residential streets shall be surfaced with Portland cement concrete or hot mix asphalt. Curb and gutter, sidewalks, and driveways shall be Portland cement concrete. Portland cement concrete shall be Class C-3 per Iowa DOT specification 2512 with a minimum 28-day compressive strength of 4,000 psi and target air content of 8% +/-1%. Portland cement shall be ASTM C150 Type I or I/II. Slag shall conform to ASTM C989 and fly ash shall conform to ASTM C618 Class C. Cement substitution rate shall not exceed 15%. Concrete shall receive a thorough coat of white curing compound immediately after finishing. Hot mix asphalt shall meet Iowa DOT gyratory design and mixture criteria for 300,000 ESALs. The asphalt binder shall be PG 58-28 for a 1/2 inch mix.

(12) Concrete Quality Control. All Portland cement concrete and hot mix asphalt shall be tested by a certified laboratory assuring quality. Portland cement concrete shall be sampled according to ASTM C172. A minimum of one test per 100 cubic yards of concrete each day is required. Each test shall include a minimum of 4 cylinders, temperature, slump, and air content. Hot mix asphalt testing shall be in accordance with Iowa DOT specification 2303.04.

(13) Sidewalks and Driveways. Portland cement concrete pavement for the sidewalk and driveways shall be constructed in accordance with Iowa DOT specifications 2301, 2511, 2515, and 2516. Sidewalks shall be placed 12 inches inside the Right-of-Way. Sidewalks shall slope towards the roadway with a maximum cross slope of 2% and a maximum longitudinal slope of 5%, where possible. Sidewalks shall have a minimum thickness of 4 inches and a minimum width of 4 feet with a 4 inch compacted modified subbase meeting Iowa DOT gradation 14 per article 4109.02. Sidewalks crossing driveways shall have a minimum thickness of 6 inches. Where sidewalks intersect existing streets, pedestrian ramps, and curbs the minimum thickness shall be 6 inches and shall be constructed in conformance with ADA and Iowa DOT specifications and details. Driveways shall be surfaced with a minimum 6 inch Portland cement concrete on top of 6 inch compacted modified subbase meeting Iowa DOT gradation 14 per article 4109.02. Driveways shall have a maximum longitudinal slope of 10%.

(14) Industrial and Commercial Streets. Industrial and commercial streets shall be surfaced with minimum 10 inch thick doweled Portland cement concrete in accordance with Iowa DOT specifications 2301, 2316, and 2512. The minimum width shall be 31 ft from back-of-curb to back-of-curb or 24 feet with 6 foot crushed stone shoulders in rural sections. For a rural section with drained ditches the maximum ditch slope shall be 3:1. Pavement cross slope shall be a minimum of 2% and maximum of 3%.

(15) Roadway Salts and Deicing Solutions. Portland cement concrete pavement shall not receive any application of roadway salts or deicing solutions for the first 12 months following construction. Roadway salts or deicing solutions shall not be applied within 300 feet of fresh

concrete. During the first 12 months following construction, the application of clean granular material shall be the only material applied to Portland cement to improve driving conditions.

(Ord. 9-17, Passed 28, 2017)

## **CHAPTER 6A STREET USE**

6A-6-1 Removal of Warning Devices

6A-6-7 Washing Vehicles

6A-6-2 Obstructing/Defacing

6A-6-8 Burning Prohibit

6A-6-3 Placing Debris On

6A-6-9 Maint of Parking

6A-6-4 Playing In

6A-6-10 Dumping Snow

6A-6-5 Barricaded Street

6A-6-11 Driveway Culverts

6A-6-6 Business Purpose

6A-6-1 Removal of Warning Devices. It is unlawful for a person to willfully remove, push down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or extinguish any lamp or other light erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

6A-6-2 Obstructing or Defacing. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

6A-6-3 Placing Debris. It is unlawful for any person to throw or deposit on any street or alley glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer or any substance likely to injure person, animal or vehicle.

6A-6-4 Playing In. It is unlawful for any person to coast, sled or play games on streets/alleys except in the areas blocked off by the city for such purposes

6A-6-5 Traveling on Barricaded Street/Alley. It is unlawful for any person to travel or operate any vehicle on a street/alley temporarily closed by barricades, lights, signs or flares placed thereon by the authority of a city official, police officer or member of the fire department.

6A-6-6 Use for Business Purpose. It is unlawful to park, store or place temporarily or permanently machinery, junk or other goods, wares and merchandise of any kind upon streets/alleys for the purpose of storage, exhibition, sale or offering same for sale without permission of the council.

6A-6-7 Washing Vehicles. It is unlawful for any person to use public sidewalks, streets/alleys for the purpose of washing or cleaning automobile, truck equipment or a vehicle of any kind when such work is done for hire or as a business. This does not prevent persons from washing or cleaning his/her own vehicle or equipment when it is lawfully parked in the street/alley.

6A-6-8 Burning Prohibited. No person shall burn trash, leaves, rubbish or other combustible material in the curb gutter or on paved or surfaced street/alley.

6A-6-9 Maintenance of Parking or Terrace. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right of way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

If the property owner fails to perform an action required within a reasonable time the city may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

6A-6-10 Dumping of Snow. It is unlawful for any person to push, place, throw or cause to be placed ice or snow from private property, sidewalks or driveways onto the traveled way of a street/alley so as to obstruct gutters or impede the passage of vehicles upon the street/alley except where in the cleaning of large commercial drives in the business district it is necessary to move the snow onto the street/alley temporarily. Such accumulation shall be removed promptly by the property owner or agent.

6A-6-11 Driveway Culverts. The property owner shall at the owner's expense install culverts deemed necessary under any driveway or any other access to the owner's property. Before installing a culvert permission must first be obtained from the city. In the event repairs are needed to the culvert it shall be the responsibility of the property owner to make such repairs. If the property owner fails to do so the city shall have the right to make the repairs and assess the cost against the property for collection in the same manner as a property tax.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 7 SUBDIVISION REGULATIONS**

6-7-1	Purpose	6-7-11	Final Plat Attachments
6-7-2	Definitions	6-7-12	Action by the Council
6-7-3	Platting Required	6-7-13	General Requirements
6-7-4	Procedure	6-7-14	Improvements Required
6-7-5	Requirements of Preliminary Plat	6-7-15	Inspection of Improvements
6-7-6	Referral of Preliminary Plat	6-7-16	Completion of Improvements
6-7-7	Action by Commission	6-7-17	Performance Bond
6-7-8	Final Plat	6-7-18	Maintenance Bond
6-7-9	Referral of Final Plat	6-7-19	Variances
6-7-10	Requirements of Final Plat	6-7-20	Changes and Amendments

6-7-1     **PURPOSE.** The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

6-7-2     **DEFINITIONS.** For use in this chapter, the following terms or works are defined.

1.    “Alley” means a public right-of-way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property.

2.    “Block” means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.

3.    “Building Lines” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.

4.    “Commission” means the Planning and Zoning Commission of the City.

5.    “Cul-de-sac” means a minor street having one end open to traffic and terminated by a vehicular turnaround.

6.    “Easement” means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.

7.    “Flood” means an overflow of water onto lands not normally inundated.

8.    “Flood plain” means a relatively flat area or low lands adjoining the channel of a river, stream or water course, lake or other body of standing water, which has been or may be covered by flood waters.

9. “Lot” means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

10. “Major street” means a street which is used continuously connecting various sections of the City.

11. “Minor street” means a street which is used primarily for access to the abutting properties.

12. “Performance bond” means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.

13. “Plat” means a map, drawing or chart on which the subdivider’s plan of the subdivision of land is presented and which the subdivider submits for approval and intends, in final form, to record.

14. “Public Right-of-Way” means the area between property lines dedicated to and accepted by the City for public use, providing access to abutting properties, and providing routes for public utilities.

15. “Subdivider” means the person undertaking the subdivision or resubdivision of a tract or parcel of land.

16. “Subdivision” means the division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or, the resubdivision of land heretofore divided or platted into lots or other divisions of land or any division of land.

17. “Simple Subdivision” is defined as any subdivision in which no new streets, public or private, are proposed, which does not require the construction of any public improvements, and which contains fewer than three (3) lots.

18. “Minor Subdivision” is defined as any subdivision in which no new streets, public or private, are proposed, which does not require the construction of any public improvements, and which contains three (3) or more lots.

19. “Major Subdivision” is defined as any subdivision which is not a simple plat or a minor subdivision.

20. A “Preliminary Plat” is a study, drawing, map, or chart indicating the proposed manner or layout of the subdivision which is submitted to the Planning and Zoning Commission and City Council for consideration.

21. A “Final Plat” is a map or drawing, on which the subdivision is presented in the form which, if approved by the Zoning Administrator, Planning and Zoning Commission, and/or City Council, will be filed and recorded with the County Recorder.

6-7-3 PLATTING REQUIRED. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot or lots, acreage or suburban lots within the City or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles from the corporate limits shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

6-7-4 PROCEDURE. In obtaining final approval of a proposed subdivision by the City of Cascade, the subdivider shall submit a preliminary plat or final plat to the City Clerk in accordance with the zoning regulations of the City and the requirements hereinafter set forth and install improvements or provide a performance bond. Should any provisions of this chapter be in conflict with any other ordinance, the more restrictive shall apply.

1. Simple subdivisions shall be reviewed by the Zoning Administrator to determine compliance with the Code of Ordinance of the City of Cascade. The Zoning Administrator shall require and enforce conditions to provide that the simple subdivision meets the requirement of Code of Ordinance of the City of Cascade. Review by the Planning and Zoning Commission and City Council shall not be required. No simple subdivision shall be recorded unless the Zoning Administrator has approved the plat. Fees for the review of simple subdivision shall be set by resolution of the City Council from time to time.

2. Minor subdivisions shall be reviewed and approved by the Planning & Zoning Commission and City Council per the requirements hereinafter set forth. A preliminary plat is not required for a minor subdivision. However, the Planning & Zoning Commission may, in special circumstances where the Commission feels that the final plat does not convey enough information to adequately review the subdivision, move to require additional information or a complete preliminary plat. A minor subdivision may also be approved by the Zoning Administrator provided that such subdivision has been previously reviewed and approved as part of larger minor or major subdivision by the Planning & Zoning Commission and City Council. Fees for the review of a minor subdivisions shall be set by resolution of the City Council from time-to-time.

3 Major subdivisions shall require a preliminary plat and final plat as prescribed in Sections 6-7-5 and 6-7-10 of this Chapter and review and approval of Planning & Zoning Commission and City Council per the requirements hereinafter set forth. In addition, a pre-application conference with a committee of the City Council shall be required to acquaint the affected parties with the proposed subdivision, the City’s subdivision requirements, and to outline the subdivision review and approval process. Fees for the review of a major subdivision shall be set by resolution of the City Council from time-to-time.

6-7-5 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall first prepare and file with the Clerk five (5) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitations.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
12. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater, unless the Council waives this requirement.
13. Existing and proposed zoning of the proposed subdivision and adjoining property.

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6-7-6 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer five (5) copies of the preliminary plat to the Commission.

6-7-7 ACTION BY THE COMMISSION. The Commission shall, as soon as possible, but not more than thirty (30) days thereafter, negotiate with the subdivider or changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the

preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification, or disapproval.

1. In the event that substantial changes or modifications are made by the Commission or disapproval of the plat, it shall give its reasons therefore and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. The action of the Commission shall be noted on five (5) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copies retained by the City.

3. The "Conditional Approval" by the Commission shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-7-8 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-7-9 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the Commission, prepare and file seven (7) copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Commission. Upon receipt of the final plat and other required documents, the Clerk shall transmit five (5) copies of the final plat to the Commission for its recommendations and approval.

6-7-10 REQUIREMENTS OF THE FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one inch with India ink on a reproducible tracing linen. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan.

4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.

5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.

6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

6-7-11 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

2. A certificate by the owner and spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.

3. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner and that the land is free from encumbrances other than those secured by an encumbrance bond.

4. A certificate from the Clerk of the District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in that office.

5. A certificate from the County Recorder that the title in fee is in the owner and that it is free from encumbrances other than those secured by an encumbrance bond.

6. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

7. A certificate of dedication of streets and other public property.

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

9. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

11. A certificate by the Clerk that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City

Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any. Within thirty (30) days after application for approval of the final plat, the Commission shall approve or disapprove it. If the Commission approves, it shall fix its seal upon the plat together with the certified signature of its Chairperson and Secretary. If it disapproves, it shall set forth its reasons in its own records and provide the applicant with a copy. After approval of the final plat by the Commission, and the fulfillment of the requirements of these regulations, one copy shall be submitted to the Clerk for approval by the Council.

**6-7-12 ACTION BY THE COUNCIL.** Upon receipt of the certification by the Clerk the Council shall, within a reasonable time, either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.

3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of the County where the land to be subdivided is located, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

**6-7-13 GENERAL REQUIREMENTS.** The following general requirements shall be followed by all subdividers:

1. Land Suitability. No land shall be subdivided which is held unsuitable for its intended use by the Commission for reasons of flooding, inadequate drainage, soil, and rock formations with severe limitations for development, susceptibility to mud slides or earth slides, severe erosion, potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed subdivision or the community at large. However, the Commission may approve preliminary and final plats if subdividers improve lands consistent with the standards of this and other applicable ordinances to make subdivision areas, in the opinion of the Commission, suitable for their intended uses. The Commission may also approve the preliminary and final plats if subdividers agree to make suitable improvements and place a sum in escrow pursuant to Section 6-7-16 of this chapter to guarantee performance. In determining the appropriateness of land subdivision at a site, the Commission shall consider the objectives of this chapter and:

a. The danger to life and property due to the increased flood heights, or velocities caused by subdivision fill, roads, and intended uses.

b. The danger that intended uses may be swept on to other lands or downstream to the injury of others.

c. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions.

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

e. The importance of the services provided by the proposed facility to the community.

f. The requirements of the subdivision for a water-front location.

g. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses.

h. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed subdivision to the comprehensive plan and flood plain management program for the area.

j. The safety of access to the property for emergency vehicles in times of flood.

k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

l. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

## 2. Relation to Existing Streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

b. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

## 3. Acreage Subdivisions.

a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

4. Minor Streets. Minor streets shall be so planned as to discourage through traffic. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turnaround, having an outside roadway diameter of at least ninety (90) feet and a street property line diameter of at least one hundred-ten (110) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than fifty (50) feet.

#### 5. Frontage Streets.

a. Where a subdivision abuts or contains an existing or proposed arterial street, the City of Cascade may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

b. Where a subdivision borders on or contains a rail-road right-of-way or limited access highway right-of-way, the City may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

6. Half streets. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the City finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

#### 7. Street Geometrics.

a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collection streets.

c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the City shall determine for special cases.

#### 8. Street and Alley Widths.

a. Major streets shall have a minimum width of sixty-six (66) feet with a minimum of forty-one (41) foot roadway.

b. Minor streets shall have a minimum width of sixty-six (66) feet with a minimum of thirty-seven (37) foot roadway.

c. Minimum Construction Standards. Streets within any subdivision shall be constructed, repaired or replaced in accordance with industry standards, including but not limited to at least the minimum standards set forth in Section 6-6-6.

(Ord. 9-17, Passed August 28, 2017)

#### 9. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the Commission may deem it necessary. The Commission may permit comparable cutoffs or chords in place of rounded corners.

10. Street Names. In general, streets running east and west shall be named “avenues”. Streets running north and south shall be named “streets”. Streets that loop around and exit in the same direction as they enter shall be named “courts”. Streets that end in a cul-de-sac shall be named “lanes”. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Commission.

11. Street Grades. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves. No street grade shall be less than one-half (1/2) of one percent.

#### 12. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be twenty (20) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Commission.

### 13. Blocks.

a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the Council may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

### 14. Lots.

a. The lot size, width, depth, shape and orientations shall be appropriate for the location of the subdivision, for the type of development and use contemplated, and shall conform to the zoning regulations of the City.

b. Minimum lot dimensions and sizes shall conform to the following:

(1) Minimum lot size shall not be less than 80' x 120'.

(2) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide or less than ten thousand (10,000) square feet in area.

(3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking facilities required by the type and use and development contemplated.

(4) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

15. Building Lines. Building lines shall be shown on all lots within the platted area. The Commission may require building lines in accordance with the needs of each subdivision.

16. Easements.

a. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.

17. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City. The markers shall be of such material, size and length as may be approved by the City.

18. Because of the unconventional platting requirements of zero-lot line developments as allowed by the Cascade Zoning Ordinance in the R-2 and R-4 zoning districts, the City Council may waive specific requirements of this section as applicable after receiving recommendation from the Planning and Zoning Commission prior to creation of the preliminary plat and/or the final plat. The request for specific waiver shall be made by the subdivider and shall be presented to the Zoning Administrator preceding any formal plat submitted.

6-7-14 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Commission and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Commission.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the Commission may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Commission.

4. Sidewalks. Sidewalks may be required by the Commission if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Commission.

5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the Water Department standards, procedure and supervision.

6. Sewers.

7. Underground Utilities Required. Electric and telecommunications lines shall be underground in designed utility easements and/or public right-of-ways in accordance with applicable electrical and safety codes and no less than a minimum depth of eighteen (18) inches from finished grade.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Commission and the State Department of Health.

b. Where sanitary sewers are not available, other facilities, as approved by the Commission and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.

c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Commission.

6-7-15 INSPECTION OF IMPROVEMENTS. The Council shall provide for the inspection of required improvements during construction and insure their satisfactory completion. The subdivider shall pay to the City an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the City and no building permits shall be issued until all fees are paid. The subdivider shall furnish the City with a construction schedule prior to the commencement of any and all construction, and notify the City not less than forty-eight (48) hours in advance of readiness for required inspection.

6-7-16 COMPLETION OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the subdivider shall provide the City with detailed record drawings or as-built drawings prepared by a licensed engineer for the required public improvements. The City Administrator shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

6-7-17 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

6-7-18 MAINTENANCE BOND. The subdivider shall also warrantee the materials and labor on the required public improvements for a period of two (2) year after completion and acceptance by resolution of the Council. Said warrantee shall be in the form of a maintenance bond issued by a responsible surety company and approved by the City of Cascade.

6-7-19 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may, upon recommendation from the Commission, vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and in no instance, shall it be in conflict with any zoning ordinance and such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.

6-7-20 CHANGES AND AMENDMENTS. Upon recommendation from the Commission, any regulations or provisions of this regulation may be changed and amended from time to time by the Council, provided however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four (4) or more than twenty (20) days before the date of the hearing.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 8 SIDEWALK REGULATIONS**

6-8-1	Purpose	6-8-12	Failure to Obtain Permit; Remedies
6-8-2	Definitions	6-8-13	Inspection and Approval
6-8-3	Designated Areas	6-8-14	Barricades and Warning Lights
6-8-4	Cleaning Snow, Ice, and Accumulations	6-8-15	Interference with Sidewalk Improvements
6-8-5	Maintenance Responsibility	6-8-16	Special Assessments for Construction and Repair
6-8-6	Liability of Abutting Owner	6-8-17	Notice of Assessment for Repair or Cleaning Costs
6-8-7	Ordering Sidewalk Improvements	6-8-18	Hearing and Assessment
6-8-8	Repairing Defective Sidewalks	6-8-19	Billing and Certifying to County
6-8-9	Notice of Inability to Repair or Barricade	6-8-20	ADAAG Compliance
6-8-10	Standard Sidewalk Specifications		
6-8-11	Permits for Construction or Removal		

6-8-1    **PURPOSE.** The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-8-2    **DEFINITIONS.** As used in this chapter, the following terms have these meanings:

1.    **Defective Sidewalk.** Any public sidewalk exhibiting one or more of the following characteristics:

- a.    vertical separations equal to three-fourths (3/4) inch or more.
- b.    horizontal separations equal to three-fourths (3/4) inch or more.
- c.    holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d.    spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e.    spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f.    a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-8-3 DESIGNATED AREAS. Sidewalks shall be installed and maintained in designated areas. The City Council shall determine the designated areas and the City shall maintain a map of the designated areas.

(Ord. 29.16, Passed December 12, 2016)

6-8-4 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty-four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

In addition, the City may issue a municipal infraction for violators as follows per year:

1. First Offense – Written warning
2. Second Offense - \$125.00
3. Third and Each Repeat Offense - \$250.00

(Ord. 7-16, Passed March 14, 2016)

6-8-5 MAINTENANCE RESPONSIBILITY. The owner of any lot or parcel thereof abutting upon any sidewalk and the City streets in the City shall maintain said sidewalk in a state of good repair, free from cracks, holes and unevenness so that the sidewalk does not constitute a safety hazard. A state of sidewalk disrepair is hereby declared a public nuisance. The owner of any lot or parcel who fails to repair said sidewalk shall be liable to any person injured as a result of such failure and shall further save, defend, indemnify and hold harmless the city of Cascade from and against any claim arising out of the failure to maintain said sidewalk.

(Ord. 31-16, Passed December 12, 2016)

**6-8-6 LIABILITY OF ABUTTING OWNER.** As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

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

(Code of Iowa, Sec. 364.14)

**6-8-7 ORDERING SIDEWALK IMPROVEMENTS.** The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

**6-8-8 REPAIRING DEFECTIVE SIDEWALKS.** It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

**6-8-9 NOTICE OF INABILITY TO REPAIR OR BARRICADE.** It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

**6-8-10 STANDARD SIDEWALK SPECIFICATIONS.** Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one (1) foot from the property line, unless the Council shall establish a different distance due to the circumstances.

7. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at last thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-8-11 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit

shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works.

**6-8-12 FAILURE TO OBTAIN PERMIT; REMEDIES.** Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

**6-8-13 INSPECTION AND APPROVAL.** Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

**6-8-14 BARRICADES AND WARNING LIGHTS.** Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

**6-8-15 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

**6-8-16 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR.** The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

**6-8-17 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will

hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

**6-8-18 HEARING AND ASSESSMENT.** At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

**6-8-19 BILLING AND CERTIFYING TO COUNTY.** Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

**6-8-20 ADAAG COMPLIANCE.** All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

**AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

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

**OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

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

**FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

**DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk glass, nails, glass bottles, tacks, wire, cans, trash, garbage, rubbish, litter, offal or any other debris, or any substance likely to injure any person, animal or vehicle.

**MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables, or other substances or commodities on any sidewalk without first obtaining a written permit from the council.

**DAMAGE TO SIDEWALKS.** Persons who damage a sidewalk shall be held responsible for the cost of repair.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 9 FLOOD PLAIN REGULATIONS**

6-9-1	Purpose		Required
6-9-2	Definitions	6-9-17	Application for Permit
6-9-3	Lands to Which Chapter Applies	6-9-18	Action on Permit Application
6-9-4	Establishment of Official Flood Plain Zoning Map	6-9-19	Construction and Use to be as Provided in Application and Plans
6-9-5	Rules for Interpretation of Flood Hazard Boundaries	6-9-20	Appointment and Duties of Board of Adjustment
6-9-6	Compliance	6-9-21	Conditional Uses
6-9-7	Abrogation and Greater Restrictions	6-9-22	Appeals
6-9-8	Interpretation	6-9-23	Variances
6-9-9	Warning and Disclaimer of Liability	6-9-24	Hearing by Board of Adjustment
6-9-10	Establishment of Zoning Districts	6-9-25	Decisions of Board of Adjustment
6-9-11	Floodway (Overlay) District (FW)	6-9-26	Factors Upon Which the Decision to Grant Variances is Based
6-9-12	Floodway Fringe (Overlay) District (FF)	6-9-27	Conditions Attached to Conditional Uses or Variances
6-9-13	General Flood Plain (Overlay) District (FP)	6-9-28	Nonconforming Uses
6-9-14	Reserved	6-9-29	Amendments
6-9-15	Administration	6-9-30	Power to Cities
6-9-16	Flood Plain Development Permit	6-9-31	Violations
		6-9-32	Severability

6-9-1 PURPOSE. It is the purpose of this chapter to promote the public health, safety and general welfare by minimizing flood losses, with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of the initial construction.
4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

6-9-2 DEFINITIONS. For use in this chapter, the following terms are defined:

1. “Appurtenant Structures” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “Five Hundred (500) Year Flood” means a flood, magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year of which, on average, will be equaled or exceeded at least once every five hundred (500) years.

9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood Insurance Study” means a study initiated, funded and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the community with the necessary information for adopting a floodplain management program; and establishing actuarial flood insurance rates.

13. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

14. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

15. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

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

17. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.

18. “Highest Adjacent Grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

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

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

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

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

19. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 167.12(4)(A); and

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

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

d. The enclosed area is not a “basement” as defined in this section. In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

20. “Maximum Damage Potential Development” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency other buildings or building complexes similar in nature or use.

“Minor Projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.

21. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

22. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the community.

23. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

24. “Recreational vehicle” means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

25. “Routine Maintenance” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

26. “Special flood hazard area” means the land within a community subject to the “base flood”. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

27. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date.

The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

28. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and other similar uses.

29. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

30. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

b. Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

31. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

32. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

6-9-3 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter apply to all lands within the jurisdiction of the City shown on the Official Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain, and Shallow Flooding Districts.

6-9-4 ESTABLISHMENT OF OFFICIAL FLOOD PLAIN ZONING MAP. The Official Flood Plain Zoning Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of this chapter. The Official Zoning Map bears the signature of the Mayor attested by the City Clerk and shall be on file in the office of the City Clerk. The Flood Insurance Rate Map(s) for Dubuque County and Incorporated Areas, the City of Cascade, Panels 19061C0467F and 0468F, dated August 10, 2021, which were prepared as part of the Flood Insurance Study for Dubuque County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be part of this ordinance.

6-9-5 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the Flood Hazard areas shall be determined by scaling distances on the official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. Any person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case and submit technical evidence.

6-9-6 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

6-9-7 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

6-9-8 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6-9-9 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

6-9-10 ESTABLISHMENT OF ZONING DISTRICTS. The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts: (i) Floodway District (FW); (ii) Floodway Fringe District (FF); (iii) General Flood Plain District (FP); and (iv) Shallow Flooding District (SF). The boundaries are shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as Permitted Uses or permissible as Conditional Uses are

prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

6-9-11 FLOODWAY (OVERLAY) DISTRICT (FW). The following regulations shall be applicable in the Floodway (Overlay) District (FW):

1. Permitted Uses. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

b. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

c. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

d. Residential uses such as lawns, gardens, parking areas and play areas.

e. Such other open-space uses similar in nature to the above uses.

2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 167.21. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

a. Uses or structures accessory to open-space uses.

b. Circuses, carnivals, and similar transient amusement enterprises.

c. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.

d. Extraction of sands, gravel, and other materials.

e. Marinas, boat rentals, docks, piers, and wharves.

f. Utility transmission lines, underground pipelines.

g. Other uses similar in nature to uses described in Subsection 1 and in this subsection which are consistent with the provisions of Subsection 3 and the general spirit and purpose of this chapter.

3. Performance Standards. All Floodway District uses allowed as a Permitted or Conditional Development shall meet the following standards.

a. No development shall be permitted in the Floodway District that would result in any increase in the 100 year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

b. All development within the Floodway District shall:

(1) Be consistent with the need to minimize flood damage.  
(2) Use construction methods and practices that will minimize flood damage.  
(3) Use construction materials and utility equipment that are resistant to flood damage.

c. No development shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other facility or system.

d. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

e. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.

g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

h. Any fill allowed in floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

i. Pipeline river or stream crossings shall be buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

6-9-12 FLOODWAY FRINGE (OVERLAY) DISTRICT (FF). All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District. All development must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All structures shall i) be adequately anchored to prevent flotation, collapse or lateral movement of the structure, ii) be constructed with materials and utility equipment resistant to flood damage, and iii) be constructed by methods and practices that minimize flood damage.

2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of 1.0 feet above the 100 year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 feet above the 100 year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment and issuance of a Conditional Use Permit, where existing topography, street grades, or other factors preclude elevating by fill. In such case, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential Structures. All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of 1.0 feet above the 100 year flood level, or together with attendant utility and sanitary systems, be floodproofed to such level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100 year flood; and that the structure, below the 100 year flood level, is watertight with walls substantially impermeable to the passage of water.

A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

(Ord. 17-16, Passed August 8, 2016)

4. All new and substantially improved structures:

a. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

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

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

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

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

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

d. New and substantially improved structures must be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to a minimum of one (1) foot base elevation or designed to be watertight and withstand inundation to such a level.

5. Factory-built homes:

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

b. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:

(1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side;

(2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

(4) Any additions to factory-built homes shall be similarly anchored.

6. Utility and Sanitary Systems.

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

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

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

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

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

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

9. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will be passable by wheeled vehicles during occurrence of the 100 year flood.

(Ord. 17-16, Passed August 8, 2016)

#### 11. Accessory Structures to Residential Uses.

a. Detached garages, sheds and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

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

(4) The structure shall be firmly anchored to resist floatation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of section 6-9-12(11)(a) of this Ordinance.

(Ord. 17-16, Passed August 8, 2016)

## 12. Recreational Vehicles.

a. Recreational vehicles are exempt from the requirements of Section 6-9-12(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

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

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

b. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 6-9-12(5) of this chapter regarding anchoring and elevation of factory-built homes.

## 13. Maximum Damage Potential Development

All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) Foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

## 6-9-13 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT (FP).

1. Permitted Development. The following development shall be permitted within the General Flood Plain District to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not require placement of structures, factory-built

homes, fill or other obstruction; the storage of materials or equipment; excavation; or alteration of a watercourse.

a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

b. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.

c. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

d. Residential uses such as lawns, gardens, parking areas and play areas.

2. Conditional Development. Any development which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation; or alteration of a watercourse may be allowed only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 6-9-21. All such development shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100 year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

### 3. Performance Standards

a. All conditional development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway District (Section 6-9-11).

b. All conditional development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe District (Section 6-9-12).

c. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

- 1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
- 2) The bridge or culvert is not associated with a channel modification that Constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code

6-9-14 RESERVED.

(Ord. 17-16, Passed August 8, 2016)

6-9-15 ADMINISTRATION. The Zoning Administrator shall administer and enforce this chapter and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review for Compliance. Review all flood plain development permit applications to insure that the provisions of this chapter will be satisfied.

2. Required Permits. Review all flood plain development permit applications to insure that all necessary permits have been obtained from federal, state or local governmental agencies.

3. Record Floor Elevation. Verify and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(Ord. 17-16, Passed August 8, 2016)

4. Notify Agencies. Notify adjacent communities and/or countries and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.

5. Records. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this chapter.

6. Annual Report. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.

7. Annexation. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

8. Subdivision Proposals. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflicts.

9. Maintain the accuracy of the community's Flood Insurance Rate Maps when:

A. Development placed within the Floodway (Overlay) District results in any of the following:

- (i) An increase in the Base Flood Elevations, or
- (ii) Alteration to the floodway boundary

B. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation;  
or

C. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

10. Perform site inspections to ensure compliance with the standards of this ordinance.
11. Forward all requests to Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

6-9-16 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to initiation of any flood plain development (any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

6-9-17 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information.

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended.
4. Elevation of the 100 year flood.
5. Elevation (in relation North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Such other information as the Administrator deems reasonably necessary for the purpose of this chapter.

6-9-18 ACTION ON PERMIT APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for Conditional Uses or variances except as directed by the Board of Adjustment.

6-9-19 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and

applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

6-9-20 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT. A Board of Adjustment is hereby established which shall hear and decide (i) applications for Conditional Uses upon which the Board is authorized to pass under this chapter; (ii) appeals, and (iii) requests for Variances to the provisions of this chapter; and shall take any other action which is required of the Board.

6-9-21 CONDITIONAL USES. Requests for Conditional Uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.

6-9-22 APPEALS. Where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

6-9-23 VARIANCES. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Prohibited. No variance shall be granted for any development within the Floodway District which would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

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

3. Required To Afford Relief. Variances shall only be granted upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Notice To Applicant. In cases where the Variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a Variance will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage and (ii) such construction increases risks to life and property.

5. Department of Natural Resources Approval. All Variances granted shall have the concurrence or approval of the Department of Natural Resources.

6-9-24 HEARINGS BY BOARD OF ADJUSTMENT. Upon the filing with the Board of Adjustment of an appeal, an application for a Conditional Use or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

6-9-25 DECISIONS OF BOARD OF ADJUSTMENT. The Board shall arrive at a decision on an appeal, Conditional Use or Variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Conditional Use or Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 6-9-27.

6-9-26 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED. In passing upon applications for conditional uses or requests for Variances, the Board shall consider all relevant factors specified in other sections of this chapter and

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

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

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

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

5. The importance of the service provided by the proposed facility to the community.

6. The requirements of the facility for a flood plain location.
7. The availability of alternate locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. Such other factors which are relevant to the purpose of this chapter.

6-9-27 CONDITIONS ATTACHED TO CONDITIONAL USES OR VARIANCES. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Conditional Uses or Variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation on periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures shall be designed consistent with the flood protection elevation or the particular area, flood velocities, durations, rate of rise, hydrostatic and forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. Such floodproofing may include, but is not necessarily limited to the following:
  - a. Anchorage to resist floatation and lateral movement.
  - b. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.

- c. Reinforcement of walls to resist water pressure.
- d. Use of paints, membranes, or mortars to reduce seepage of water through walls.
- e. Addition of mass or weight structures to resist floatation.
- f. Installation of pumps to lower water levels in structures.
- g. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
- h. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures.
- i. Construction to resist rupture or collapse caused by water pressure or floating debris.
- j. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures.
- k. Location of all electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding.

6. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a Court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the Court within thirty days after the filing of the decision in the office of the Board.

6-9-28 NONCONFORMING USES. A structure or the use of a structure on land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

- 1. Value. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed 50 percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.
- 2. Use Discontinued. If such use is discontinued for eighteen (18) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the Administrator in writing of instances of nonconforming uses which have been discontinued for eighteen (18) months.
- 3. Destroyed. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

4. Nuisances. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

5. Conditional Use. Except as provided in subsection 4 of this section, any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

6-9-29 AMENDMENTS. The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification to this chapter shall be undertaken without prior approval from the Department of Natural Resources.

6-9-30 POWER TO CITIES. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

(Ord. 17-16, Passed August 8, 2016)

6-9-31 VIOLATIONS. Violations of the provisions of this Ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 (FIVE HUNDRED DOLLARS) or imprisoned for not more than 30 (THIRTY) days. Each day such a violation continues shall be considered a separate offense. Nothing herein contained prevents the City of Cascade from taking such lawful action as is necessary to prevent or remedy violation.

(Ord. 17-16, Passed August 8, 2016)

6-9-32 SERVERABILITY. If any section, or part of the ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

(Ord. 17-16, Passed August 8, 2016)

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 10 RESTRICTED RESIDENCE DISTRICT**

6-10-1	Purpose	6-10-8	Special Permits
6-10-2	Definitions	6-10-9	Protest
6-10-3	District Described	6-10-10	Fees
6-10-4	Buildings Permitted	6-10-11	Action to Abate
6-10-5	Rules and Regulations	6-10-12	Certifying Ordinance
6-10-6	Set Back		
6-10-7	Buildings Requiring Special Permits to Locate Within Restricted Districts		

6-10-1 **PURPOSE.** The purpose of this Ordinance is to establish a restricted residence district in the City of Cascade, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, and other similar structures, except when a permit is granted in accordance with this Ordinance.

(Code of Iowa, Sec. 414.1 and 414.24)

6-10-2 **DEFINITIONS.** For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling. No business or occupation shall be conducted therein or in conjunction therewith whereby sales or services are made in a manner that the public served enters upon the residential property. The following are excepted: a beauty shop, conducted solely by the occupant and one person not resident on the property; music or art teacher, a rooming or boarding house with no more than two guests; and for which uses no external or internal alterations of the structure are made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.

2. "School" is a building used for educational purposes, public or private, that is regulated by the State Department of Public Instruction as to curriculum.

3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.

4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened.

Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, nor if it is used in conjunction with or for the business of selling goods or rendering services.

5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6-10-3 DISTRICT DESCRIBED. The following restricted residence district is hereby designated and established.

6-10-4 BUILDINGS PERMITTED. No buildings or other structures, except residences, schoolhouses, churches, and other similar structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within said district without first securing from the City Council a permit therefor. Permits for residences, schoolhouses, churches, and other similar structures, and for structures outside restricted residence districts, shall be applied for and are required, but shall be issued by the City Clerk if the requirements of this and other applicable City Ordinances are met, but no council permission shall be required under this Ordinance.

6-10-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure other than a residence, residential accessory use, school, church, or church school within said districts.

6-10-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 10,000 square feet.

No residence or other building exempted from permit shall be located in the restricted district closer than five (5) feet to the side lot lines, and no accessory building closer than five (5) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. However, any residence, other building, or accessory building currently located closer than five (5) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. Any other building granted a permit by council shall be placed at least as far from side lot lines as the residential, school, and church related buildings. All set backs shall be measured from the main foundation line.

6-10-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and

substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that would otherwise be violative of Section 6-10-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-10-8 SPECIAL PERMITS. A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-10-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

6-10-9 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the council.

6-10-10 FEES. There shall be no fee required for a permit under this Ordinance.

6-10-11 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance and it shall be abated by action in the district court. Such action for abatement shall be prosecuted in the name of the municipality.

6-10-12 CERTIFYING ORDINANCE. Within fifteen (15) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the County Recorder.

(Code of Iowa, Sec. 380.11)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 ZONING REGULATIONS

#### EDITOR'S NOTE:

Ordinance No. 260-92 entitled "Zoning Ordinance of the City of Cascade, Iowa" adopted August 24, 1992, and amendments thereto have not been included as a part of this Code of Ordinances, but have been specifically saved from repeal and are in full force and effect. The following ordinances have been adopted amending Ordinance No. 260-92.

Ordinance #	Date	Ordinance
265-93	3-8-93	M-2 District Regulations
266-93	3-8-93	Zoning Map
273-93	9-13-93	Zoning Map
274-93	10-11-93	Zoning Map
277-93	12-13-93	Zoning Map
295-95	10-23-95	Lot-1, Shady Knoll Estates, R-1 to R-4.
296-95	11-27-95	Lots 97 thru 102 Railroad Add., R-1 to C-1.
298-96	2-12-96	Lots 1 thru 12, Blk-13, 2nd Union Add., C-1 to R-4.
303-96	5-28-96	Special Exceptions in R-2 Zoning District.
306-96	10-28-96	Lots 2 & 3, Kauder Add., R-1 to M-2.
312-97	8-11-97	Lots 339 thru 346 Union Add., C-1 to M-1.
317-97	11-10-97	Lot 2-1-1 Leibold Place, C-1 to C-2.
318-97	11-24-97	Parcel 97-113, A-1 to R-1 & Parcel 98-114, A-1 to C-1.
1-99	2-8-99	Lot-1, Beck Industrial Park & Lots 1,2, & 2-7, Kringle 2 <sup>nd</sup> Industrial Park, A-1 to C-1.
2-99	2-8-99	Lot-2, Beck Industrial Park & Lot 2-1 Kringle Industrial Park, A-1 to M-1.
4-99	2-22-99	Lots 1-1-7, 2-1-7, 3-1-7, & 4-1-7 Kringle 2nd Industrial Park, A-1 to M-2.
336-99	11-22-99	Lots 1 thru 5, Block 20, West Cascade, R-1 to C-1.
337-99	11-22-99	Limited Private Garages to 10' Sidewalls in R-1 District.
2-00	5-22-00	Lot-3 Claddagh Ct., R-4 to R-2; Lots 4, 5, 6, 33, & 34, Claddagh Ct., A-1 to R-2; and Lots 7-12, 27-32, 35-39, 48-53, and Lot-D Claddagh Ct., A-1 to R-1.
8-00	6-12-00	Decreased Board of Adjustment Members from 7 to 5.
11-00	9-25-00	Lot 2-3-4, E½, SE¼, Section 36, A-1 to R-1, and Lot 1-1-1-3, N½, Section 36, A-1 to C-1.
12-00	9-25-00	Lot 2-1-3, N½, Section 36 & Lot 1-3-4, NE¼, SE¼, Section 36, A-1 to R-1.
13-00	9-25-00	Lot 2-3, N ½, Section 36 and Lot 2-2-4, E½, SE¼, Section 36, A-1 to R-1 .
14-00	12-27-00	Lots 55 & 56, East Cascade, R-1 to C-2.
15-00	12-27-00	Lot 1-2, Benham Subdivision, A-1 to M-2.

16-00	12-27-00	Lots 2-1-6, 2-1-4, 2-1-1-4, & 2-6 Benham Sub., M-1 to M-2.
17-00	12-27-00	Lots 1, 2-2, 3, & 5, Benham Subdivision, A-1 to M-2.
18-00	12-27-00	Lots 1-1-1-1-4 & 1-1-1-6, Benham Subdivision, M-1 to M-2.
22-01	4-9-01	Special Exception in R-1 Zoning District to Allow Commercial Business in Existing Nonconforming Structure.
23-01	5-29-01	Set P&Z Meetings for 3rd Thursday of Month at 7:00 PM.
27-02	3-25-02	Lot 1-1-2-A, Railroad Addition, R-1 to M-2.
28-02	3-25-02	Lots 62 thru 69, Railroad Addition, C-1 to M-2.
29-02	4-22-02	Lots 2-1-1-1 & 3-1-1-1, Mill Reserve, A-1 to C-2.
39-03	5-5-03	Lots 1, 2, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, and 23 thru 67, Sunny Side Addition, R-1 to A-1.
40-03	8-25-03	75-foot High Business ID Signs by Special Exception in C-1, M-1, & M-2 Zoning Districts.
45-03	8-11-03	Lot-1, American Legion Place & Lot 2-1-2-1, Railroad Addition, R-1 to C-1.
46-03	8-11-03	Apartment Buildings with more than 12-Units by Special Exception in R-4 Zoning District.
47-03	10-13-03	Lots 7-18, 28-30, 46-48, & 57-61, Railroad Addition; Lots C, D, E, H, I, & K, Railroad Addition, 663-feet of Lot-2, American Legion Place; and a Portion of Vacated Market Street, R-1 to C-1.
56-04	10-11-04	Reduction of Principal Structure Setbacks in R-1 District.
60-05	3-14-05	Lot-1 Garryowen Pl. #3 & Lot-A Oak Hill, A-1; Lots B, C, & D Oak Hill Sub., R-1; Lots 1-4 Block 1, Lots 1-4 Block 2, Lots 20-33 Block 33, Lots 1-27 Block 4, Lots 1-13 Block 5, & Lots 1-12 Block 6, Oak Hill Sub., R-1; Lots 5-14 Block 2 and Lots 1-9 Block 3, Oak Hill Sub., R-2; Lots 3 and 2-4 Kringle 2nd Industrial Park, C-1; and Lots A, 1, 2, 3, 4, & 5 Koppes Industrial Park, M-1.
62-05	5-23-05	Lots 7 & 8 Block 10, West Cascade R-2 to R-3.
63-05	9-12-05	Lots 1-13, 36-45, 47-49, 50-51, & Lot-C River Bend Subdivision, R-1; and Lot-46 River Bend Sub., R-4.
65-05	10-24-05	Lots 1-1, 2-1, & E 1/3 Lot-3 Block 5, West Cascade, R-1 to C-2.
69-06	3-22-06	Lot 1 & 2 of Oak Hill No. 2, A-1 to M-1; and Lots 3, 4 & 5 of Oak Hill No. 2, A-1 to R-1
70-06	4-24-06	Lot 1-1-2-1-1-2, Section 31, T87N, R1W, R-1 to C-1
71-06	4-24-06	Lots 1, 2, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20 and Lots 23-67 of Sunny Side Addition increasing the number of allowable animals to "12-animal units consisting of cattle, horses, and sheep in any combination thereof and one season's lambs."
108-08	6-23-08	Lot 1 & 2, Beck Brothers Industrial Subdivision No. 2, M-2 to C-1
118-09	7-27-09	Shady Rest Care Center, R-1 to R-4 120-09 10-12-09 Lot 1 Gadiant Place, R-1 to C-1

120-09	10-12-09	Lot 1 Gadiant Place, R-1 to C-1
125-09	12-14-09	Lot 1, RA Enterprises Place, A-1 to C-1 Lot 2, RA Enterprises Place, A-1 to R-2
126-09	12-14-09	Allowing Zero Lot Line Buildings in the C-1, M-1 and M-2 Zoning Districts & Defining Zero Lot Line Buildings
127-09	12-14-09	Defining Livestock & Stables, Limiting the Number of Animal Units Allowed in the Agricultural District, and Allowing Stables in the M-1 & M-2 Districts
5-10	5-24-10	Rezoning 43 properties from R-2 to R-1
9-10	7-26-10	Lot 1-2-1-1 of the NW1/4 of the NW1/4 of Section 32, T87N, R1W from M-2 to C-1
10-10	7-26-10	Lot 2 Schwager's Subdivision from M-2 to C-1
16-10	12-13-10	Lot 2 Home View Estates Plat No. 3 from A-1 to R-1
22-11	4-25-11	Lots 2,4,5 & 6 of RA Enterprises Place No. 2 from C-1 to M-2
28-12	1-23-12	Increasing the number of allowed animal units on Lots 1-67 of Sunny Side Addition excluding Lots 3, 4, 9, 10, 15, 16, 21 & 22 (only as long as properties are owned by & Marty Gadiant and Leo & Tammy Moriarity and they own animals pasturing the properties)
31-12	4-23-12	Lots 1-5, 9 & 10 of Block 14, Second Union Addition from R-1 to R-2
32-12	4-23-12	Lots 7-12 of Block 13, Second Union Addition from R-4 to R-2
39-13	1-14-13	Vacating Lot 1A, block 14 of second union addition, in the City of Cascade, Iowa, according to the recorded plat thereof consisting of 17,067 square feet
37-12	3-11-13	Providing for residential dwelling space on the ground floor of buildings in the C-2 general retail district
39-13A	4-8-13	Rezoning Lot 480 and the East ½ of Lot 481, Union addition and Lot 1, Lounge Place located on 6th Ave SE near Maquoketa Drive to R-2 mixed family residential from R-1 single family residential
50-14	8-11-14	Rezoning Lot 68 and 69 and part of Lot 67, Railroad Addition, from M-2 Heavy Industrial to C-1 Highway Commercial District.
01-15	2-09-15	An applicant requesting a Limited Commercial Residential Permit must provide the names and addresses of the owners of all property within three hundred (300) feet of the property for which the change is requested. Also, the applicant must provide a plat showing the location, dimensions, and the use of the applicant's property and all property within three hundred (300) feet thereof, including streets, alleys, railroads, and other physical features.

		The applicant must also get approval from a simple majority of his or her neighbors approving the proposed Limited Commercial Residential Business prior to a permit being issued.
03-15	3-9-15	Rezoning Lots 13-26 and 40-47, Claddagh Court, No. 2, from A-1 Agricultural to R-1 Single Family Residential and R-2 Mixed Residential
4-16	2-22-16	Rezoning Lots 138 & 139, Union Add to East Cascade, from R-3 Multiple/Mobile Residential District to R-1 Single Family Residential
06-16	02-22-16	Rezoning Lots 3-6 West Cascade from R-1 Single Residential to R-2 Mixed Residential
11-16	07-25-16	Please see Ordinance 11-16 in Mobile Home Regulation for full content.
12-16	6-03-16	Rezoning all of Lot 2 and the East 50' of Lot 2 near Thomas Street and 1st Ave E from M-1 Light Industrial to C-2 General Retail District.
16-16	7-11-16	The Board of Adjustment shall meet the 3rd Tuesday of each month, as needed, at 6:00 p.m. at the Cascade City Council Chambers.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 12 BUILDING PERMITS**

6-12-1	Purpose	6-12-10	Rear Yard Requirements
6-12-2	Structure Defined	6-12-11	Special Requirements for Residences
6-12-3	Permit Required	6-12-12	Variances
6-12-4	Application	6-12-13	Fences
6-12-5	Fees	6-12-14	Curb Cuts
6-12-6	Plans Required	6-12-15	Authority of City Council
6-12-7	Location of Structure	6-12-16	Permit Issued
6-12-8	Front Yard Requirements	6-12-17	Limitations on Permit
6-12-9	Side Yard Requirements		

6-12-1 **PURPOSE.** The purpose of this Chapter is to provide the City Council notice of the type of structure, the kind of construction, the location of any structure to be erected or added within the corporation, the location of any structure on any specific lot within the corporation and to provide reasonable rules for the erection, reconstruction, altering and repair of all kinds of structures.

6-12-2 **STRUCTURE DEFINED.** Anything constructed or erected with a fixed location on the ground that protrudes above the ground or surface level of a parcel of property. Structures include, but are not limited to, buildings, walls, fences, billboards, aboveground storage tanks, and similar uses.

6-12-3 **PERMIT REQUIRED.** No structure shall be erected, reconstructed, altered or added to without first securing a permit from the City Council.

6-12-4 **APPLICATION.** All requests for a building permit shall be submitted to the City Clerk on forms supplied by the City and accompanied with the appropriate fee for such permit.

6-12-5 **FEES.** A fee, in an amount established by resolution of the Council, for each building permit shall be paid to the Zoning Administrator at the time the application for the building permit is submitted to the City.

6-12-6 **PLANS REQUIRED.** Plans and specifications of any proposed structure shall be filed with the application for the permit.

6-12-7 **LOCATION OF STRUCTURE.** A complete showing and description of the real estate involved and the location of the structure on the real estate shall be filed with the application. The perimeter of the structure shall be staked prior to submitting an application.

6-12-8 FRONT YARD REQUIREMENTS. There shall be a front yard of not less than twenty (20) feet, except as follows:

1. Where a structure is to be erected on a parcel of land that is within one hundred (100) feet of existing structures on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent structures on the two sides, or

2. Where a structure is to be erected on a parcel of land that is one hundred (100) feet of an existing structure on one side only within the same block, such structure may be erected as close to the street as a line drawn from the closest front corner of that structure to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed structure is to be erected.

3. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

6-12-9 SIDE YARD REQUIREMENTS. No building shall be erected closer than five (5) feet to either side lot line, except in the business district where no side yard is required.

6-12-10 REAR YARD REQUIREMENTS. There shall be a rear yard provided for each structure of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller, except in the business district where no rear yard is required.

6-12-11 SPECIAL REQUIREMENTS FOR RESIDENCES. Any structure which is to be a residence for living shall meet the following special requirements.

1. A residence shall have a minimum of 1,000 square feet of livable space on the main floor.

2. All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. All foundations shall have footings that extend below the frost line.

6-12-12 VARIANCES. The city council may grant a variance to sections 6-12-8, 6-12-9, and 6-12-10 where the setback requirements would cause a hardship on the property owner.

6-12-13 FENCES. No setback requirements shall be applicable to the construction of a fence.

6-12-14 CURB CUTS. No curb cut shall be constructed or permitted without first obtaining a building permit.

6-12-15 AUTHORITY OF CITY COUNCIL. The City Council shall have full authority to accept or reject any plans and specifications submitted.

6-12-16 PERMIT ISSUED. Permits shall be issued by the Zoning Administrator in duplicate, one copy for the applicant and one copy to be retained in the City records.

## 6-12-17 LIMITATIONS ON PERMIT.

1. Time Limits. Any permit or approval not exercised within one (1) year of approval shall expire and become void, except where an extension of time has been approved.

If a project is to be developed in approved phases, each subsequent phase shall be exercised within one (1) year from the date that the previous phase was exercised, except where an extension of time has been approved.

An approved building permit project shall commence construction within six (6) months of the approval. If the construction has not commenced within the six (6) months, the Zoning Administrator shall contact the owner, as listed on the building permit application and inquire as to the status of the project.

2. Time Extensions. Upon written request by the applicant, the Zoning Administrator may extend the time for the permit to be exercised by six (6) months. Prior to the approval of an extension, the applicant must provide evidence that he or she has made a good faith effort to exercise the permit. If no work on the project has been started and there is no circumstance exists that prevented the applicant to exercise the permit, the extension will be denied. Only one extension of a six (6) month period will be granted.

3. Expiration. After the expiration of a planning permit, no further work shall be done on the site until a new building permit has been applied for and approved.

(Ord. 07-15, Passed, June 22, 2015)

Editor's Note: If this Ordinance is adopted be sure that the provisions of this Ordinance are consistent with the provisions of the Restricted Residence Ordinance if the City has one. Specifically, the set back and permit fee requirements should be reviewed.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 13 STORM WATER MANAGEMENT**

6-13-1	Purpose	6-13-5	Management Plan Design
6-13-2	Definitions		Requirements
6-13-3	Areas Requiring Storm Water Management Plan	6-13-6	Submission and Approval of Plan
6-13-4	Storm Water Management Requirement	6-13-7	Ownership by City
		6-13-8	Private Ownership
		6-13-9	Further Requirements

6-13-1 PURPOSE. It is the purpose of this Ordinance to establish policies to manage and control Storm Water Runoff occurring from new Development of residential, commercial, and industrial areas. The goal is to reduce peak runoff caused by Development of the land. This will result in cost savings to the overall storm sewer collection system by reducing the size of improvements required. In addition, increased public safety and sediment and erosion control are the expected benefits.

6-13-2 DEFINITIONS. Wherever used in this Ordinance and printed with an initial capital letter, the terms listed below will have the meanings indicated. Words using the present tense shall include the future; the singular shall include the plural; the plural shall always include the singular. The term ‘shall’ is always mandatory, and the term ‘may’ is permissive.

1. “Capacity (of a Storm Water Facility)” means the maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.

2. “City” means the City of Cascade, Iowa.

3. “City Administrator” means the City Administrator of the City of Cascade, Iowa.

4. “City Council” means the City Council of the City of Cascade, Iowa.

5. “Civil Engineer” means a professional engineer licensed in the State of Iowa to practice in the field of civil works.

6. “Control Structure” means part of a Storm Water Management Facility designed to regulate the Storm Water Runoff Release Rate.

7. “Design Storm” means a storm with characteristics of the average storm for the desired Return Frequency.

8. “Detention Basin” means a Storm Water Management Facility designed, constructed or modified to provide short term storage of storm water runoff, which reduces the peak outflow to a rate less than the peak inflow.

9. “Development” means the changing of land from its existing state or an area of land use change, usually involving the building of infrastructure, housing, commercial, and/or industrial structures.

10. “Developed Condition” means the hydraulic and hydrologic site characteristics that occur upon completion of a Development.

11. “Drainage Area” means an area of land contributing to Storm Water Runoff.

12. “Green Infrastructure” means natural drainage ways, wet lands, infiltration systems, open green space, etc.

13. “Green Space” that area in and around a development which is covered with grass, trees, shrubs, and other natural plantings that naturally absorbs storm water.

14. “Ordinance” means the portion of the City Municipal Code entitled ‘Storm Water Management Ordinance’.

15. “Overflow Path” means the path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system or Detention Basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.

16. “Pre-developed Condition” means the hydraulic and hydrologic site characteristics that occur prior to a proposed Development, including natural storage areas, drainage ways, drainage tiles, and highway drainage structures.

17. “Regional Storm Water Management Facilities” means those facilities designed to handle Storm Water Runoff from several lots which may include the entire subdivision, or multiple subdivisions, and may include existing developed areas.

18. “Return Frequency” means the statistic parameter that defines the average occurrence time for a storm of a given magnitude.

19. “Site” means a lot, parcel, or tract of land, or portion thereof, where Development is occurring, or has occurred, and may, or may not, require additional permits.

20. “Site Plan” means an overall plan of the area to be developed including, but not limited to: proposed building location(s), proposed parking and drive locations, proposed utilities including storm sewer components and subsurface drain tile, proposed ground elevations with drainage patterns highlighted, roof drainage outlet locations, other underground utilities, and property boundaries.

21. “Storm Sewer System” means facilities for the conveyance of Storm Water Runoff, a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and swales.

22. “Storm Water Management Facilities” means a Detention Basin and the associated appurtenances to make the system functional.

23. “Storm Water Management Plan” means a Site Plan, certified by a Civil Engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased Storm Water Runoff from the Site.

24. “Storm Water Runoff” means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.

25. “Subdivision” means the division of land for the purpose of transfer of ownership or building development, whether immediate or future.

6-13-3 AREAS REQUIRING STORM WATER MANAGEMENT PLAN. A Storm Water Management Plan shall be required for the following:

1. All new residential, commercial, industrial developments and subdivision 4-acres in size and larger. Phased residential, commercial, and industrial developments whose combined total is 4-acres and larger. Residential, commercial, and industrial developments under 4-acres in size shall maintain a minimum of 20% green space.

2. In Developments where the natural drainage is divided into more than one watershed, the individual watershed Drainage Areas must meet the criteria mentioned above before storm water management is required.

3. Other Developments may be required to submit a Storm Water Management Plan at the discretion of the City Council. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or Storm Water Management Facility.

4. At the discretion of the City Council, a fee may be charged the developer in lieu of providing Storm Water Management Facilities. This may be utilized when the City is constructing a larger Regional Storm Water Management Facility to handle multiple existing or proposed Developments.

6-13-4 STORM WATER MANAGEMENT REQUIREMENTS. The Storm Water Management Plan shall include, but not be limited to, the following information:

1. Peak discharges for Pre-Developed and Developed conditions based upon the design storms.

2. Individual parameters used for determining discharges shall be listed.
3. Hydraulic capacity of storm sewer inlets, pipes, open channels, or other means of conveying water.
4. Green Space calculations to meet the 20% minimum requirement.
5. Detention Basin design with Capacity listed.
6. Control Structure/outlet design.
7. Review of existing or proposed downstream conveyance capacities.
8. The SCS TR-55 computerized runoff volume program or other technically proven method shall be utilized for runoff calculations.

6-13-5 MANAGEMENT PLAN DESIGN REQUIREMENTS. The design requirements of the Storm Water Management Plan shall include:

1. Developments requiring storm water management shall be required to detain the difference between the 10-year Pre-Developed storm and the 100-year Developed storm.
2. The maximum release rate for storms up to an expected Return Frequency of 100-years shall be the 10-year Pre-Developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the Detention Basin.
3. Regional Storm Water Management Facilities are encouraged. Wet basins are also encouraged because they enhance water quality, add aesthetic value, and increase property value.
4. For residential developments, storm water detention is not allowed within any front or side yard setbacks required by zoning code, or within 25 feet from the estimated rear building line.
5. Dry-bottomed Detention Basins shall be oversized by 10% to help offset anticipated sedimentation. An alternative to oversizing, is the construction of a series of sediment trapping forebays in the basin with firm bottoms which allow routine remove of sediment.
6. Maximum side slopes of Detention Basins shall not exceed 3.5:1.
7. Provisions shall be made to keep the bottom of the Detention Basin dry unless a permanent pond or lake is being utilized for detention.

6-13-6 SUBMISSION AND APPROVAL OF PLAN. A Site Plan shall be a required attachment to a proposed Storm Water Management Plan, all of which is to be submitted to the City Administrator for review. The Storm Water Management Plan, including proposed storm water detention facilities, shall be reviewed and approved by the City Administrator (or those chosen by the City Administrator) prior to the issuance of any building permit for the proposed Development.

The City may inspect the site at any time to determine compliance with this Ordinance. Upon determination that a site is not in compliance with this Ordinance, the City may issue a stop work order until compliance is achieved. The order shall describe the problem, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

6-13-7 OWNERSHIP BY CITY. Regional Storm Water Management Facilities which are of sufficient size may be deeded to and be maintained by the City. The conditions for City ownership will be reviewed on a case by case basis. The City is under no obligation to accept ownership of the facility. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public storm sewer Detention Basins will be located with a 50-foot perimeter to establish and maintain a vegetative buffer. Ingress-egress easements for maintenance of public facilities shall be provided prior to final approval.

6-13-8 PRIVATE OWNERSHIP. For sites on which privately owned storm water detention facilities are located, the property owner will be responsible for the following:

1. All future grading, repairs, and maintenance.
2. Maintenance of the minimum storm water detention Capacity, as originally designed.
3. Maintenance of the Detention Basin Control Structure(s) and discharge pipe(s) to insure the maximum theoretical design release rate is not increased.
4. The property owner shall not place fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless approved in writing by the City.

6-13-9 FURTHER REQUIREMENTS. Compliance with this ordinance does not relieve the developer or property owner of other responsibilities relating to storm water discharge. This includes, but is not limited to NPDES storm water discharge permits regulated by Iowa Department of Natural Resources, and other State of Iowa and federal requirements.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 1 UTILITY EASEMENTS**

7-1-1     Obstruction of Easement  
             Prohibited

7-1-2     Penalty

7-1-1     OBSTRUCTION OF EASEMENT PROHIBITED. All persons and land owners are prohibited from causing or allowing the real estate encumbered by an easement granted by the City to the provider of a utility service to be obstructed by anything that interferes with the providing of that utility service, including, but not limited to, the existence of or planting of trees or shrubs, the erection of any structure, the accumulation of brush or rubbish or the placing of any object on a utility easement that interferes with the use and maintenance of the utility easement.

7-1-2     PENALTY. A violation of this chapter is punishable by a fine not to exceed \$100.00 or a term in jail not to exceed thirty (30) days for each day that a person violates the prohibition set forth above. In addition, a violation of this chapter shall constitute a municipal infraction pursuant to Chapter 3 of this Code of Ordinances.

## **TITLE VII SPECIAL ORDINANCES**

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 2 CABLE TELEVISION FRANCHISE (VIDEO) FRANCHISE**

7-2-1	Defined Terms	7-2-14	Construction and Installation
7-2-2	Regulatory Authority	7-2-15	Service Extensions
7-2-3	Grant of Franchise	7-2-16	Ownership and Removal
7-2-4	Term and Renewal	7-2-17	Confidentiality of Protected Information
7-2-5	Franchise Fee	7-2-18	Legal Compliance; Severability
7-2-6	PEG Capital Support Fee	7-2-19	Force Majeure
7-2-7	PEG Capital Grant	7-2-20	Assignment or Transfer
7-2-8	PEG Access Equipment and Capacity	7-2-21	Third Party Liability
7-2-9	Institutional Network	7-2-22	Notices
7-2-10	Bonding Requirements	7-2-23	Emergency Alert System
7-2-11	Customer Service Standards	7-2-24	Legal Effect; Other Ordinances
7-2-12	Technical Standards		
7-2-13	Nonexclusive Franchise; Equal Protection		

7-2-1 **DEFINED TERMS.** For purposes of this Chapter, certain capitalized terms have the meanings provided in this Section. Other capitalized terms used in this Chapter are defined in the context in which they are used and shall have the meanings ascribed therein. Capitalized terms used in this Chapter shall have the meaning ascribed to them at the point where defined, irrespective of where their use occurs, with the same effect as if the definitions of said terms were set forth in full and at length every time such terms are used. All terms defined in this Chapter in the singular form will have comparable meanings when used in the plural form and vice versa.

1. “Affiliate” means as to any Person, any Person directly or indirectly controlling, controlled by or under common control with such Person. For purposes of this definition, the terms “control”, “controlling”, “controlled by” or “under common control with” means having the right to elect or appoint, directly or indirectly, a majority of the board of directors, managers, managing members, general partners or other comparable body or entity responsible for the management or direction of a Person, whether by contract, equity ownership or otherwise.

2. “Cable Act” means, collectively, the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, each as amended.

3. “Cable Franchise Ordinance” is defined in the introductory paragraphs of this Chapter.

4. “Cable Service” means (a) the one-way transmission to subscribers of (i) Video Programming, or (ii) other information that the Company makes available to all subscribers

generally, and (b) subscriber interaction, if any, which is required for the selection or use of such Video Programming or other information.

5. “Communications Act” means the Communications Act of 1934, as amended.

6. “Company” is defined in the introductory paragraphs of this Chapter.

7. “Customer Proprietary Information” means any and all information or data that is provided to the City by, through or on behalf of the Company under this Chapter or the Cable Regulatory Ordinance that relates to any: (a) lists of current, prospective or former customers of the Company or its Affiliates; (ii) nonpublic personal information of any Person who is a current, prospective or former customer of the Company or its Affiliates, including information about any customer’s network or business operations; (iii) customer proprietary network information (“CPNI”) of any party or its Affiliates, within the meaning of Telecommunications Act and implementing FCC Rules, or any similar provision under any other applicable Legal and Regulatory Requirements; or (iv) other sensitive personal or personally identifiable information of a party’s customers required to be safeguarded as confidential under applicable Legal and Regulatory Requirements.

8. “FCC” means the Federal Communications Commission.

9. “FCC Rules” means the rules and published policies of the FCC as in effect from time to time.

10. “Franchise” means the franchise authorization issued by the City under this Chapter which authorizes the construction, operation and maintenance of a Video System within the Public Right-of-Way.

11. “Franchise Area” means the geographic area within the corporate boundaries of the City, including any areas lawfully annexed to the City in the future.

12. “Governmental or Regulatory Authority” means the FCC, the IUB, and any other Federal, state, local, foreign or other governmental or quasi-governmental authority and any governmental, quasi-governmental or other department, commission, body, board, bureau, agency, association, subdivision, court, tribunal or other instrumentality exercising any executive, judicial, legislative, regulatory or administrative function.

13. “Gross Revenues” means all consideration of any kind or nature, including but not limited to cash, credits, property, and in-kind contributions received from subscribers for the provision of Service within the Franchise Area.

a. “Gross Revenues” are limited to the following:

(1) Recurring charges for Service.

(2) Event-based charges for Service, including but not limited to pay-per-view and video-on-demand charges.

- (3) Rental of set-top boxes and other Service equipment.
- (4) Service charges related to the provision of Service, including but not limited to activation, installation, and repair charges.
- (5) Administrative charges related to the provision of Service, including but not limited to service order and service termination charges.

b. For avoidance of doubt, “Gross Revenues” do not include:

- (1) Revenues not actually received, even if billed, including bad debt.
- (2) Revenues received by any Affiliate or any other Person in exchange for supplying goods or services used by the Company to provide Video Service.
- (3) Refunds, rebates, or discounts made to third parties, including subscribers, leased access providers, advertisers, or the City or any other unit of local government.
- (4) Regardless of whether the services are bundled, packaged, or functionally integrated with Video Service, any revenues derived by the Company from services not classified as Video Service, including, without limitation, revenue received from telecommunications services, revenue received from data communications services, revenue received in connection with home-shopping services, or any other revenues attributed by Company to other noncable or non-video service in accordance with the Company’s books and records kept in the regular course of business and any applicable Legal and Regulatory Requirements.
- (5) Revenues paid by subscribers to home-shopping programmers directly from the sale of merchandise through any home shopping channel offered as part of Video Service.
- (6) Revenues from the sale of Video Service for resale in which the purchaser is required to collect the franchise fee from the purchaser's customer.
- (7) Revenues from any tax of general applicability imposed upon the Company or upon subscribers by a Governmental or Regulatory Authority and required to be collected by the Company and remitted to the taxing entity, including but not limited to sales or use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes, and including any franchise fee imposed under this Chapter or the Regulatory Ordinance.
- (8) Revenues forgone from the provision of Video Service to public institutions, public schools, or civic or governmental entities at no charge.
- (9) Revenues forgone from the Company’s provision of free or reduced-cost Video Service to any Person, including, without limitation, any Governmental or Regulatory Authority.
- (10) Revenues from sales of capital assets or sales of surplus equipment.
- (11) Revenues from reimbursements by programmers of marketing costs incurred by the Company for the introduction or promotion of new programming.
- (12) Directory or Internet advertising revenues including but not limited to yellow page, white page, banner advertisement, and electronic publishing.
- (13) Copyright fees paid to the United States Copyright Office.
- (14) Late payment charges.
- (15) Maintenance charges.

14. “IUB” means the Iowa Utilities Board.

15. “IUB Rules” means the rules and published policies of the IUB as in effect from time to time.

16. “Institutional Network” means any facilities within or services provided using the System reserved and dedicated by the City for noncommercial purposes, including service outlets for the provision of Video Service to public institutions, public or parochial schools, or civic or governmental entities at no charge.

17. “Legal and Regulatory Requirements” means any provision of the Communications Act, Cable Act, Telecommunications Act, the FCC Rules, IUB Rules, and any other Federal, state, local, foreign or other constitution, statute, treaty, ordinance, rule, regulation, regulatory or administrative guidance, principle of common law or equity, order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any Governmental or Regulatory Authority. To the extent not repealed or preempted by the provisions of this Chapter, the provisions of the Regulatory Ordinance are “Legal and Regulatory Requirements” within this meaning.

18. “Person” means any individual, corporation (including any nonprofit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity or Governmental or Regulatory Authority.

19. “Protected Information” means any and all trade secrets, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, maps, blueprints, diagrams, and other technical, financial and business information concerning the Company or its Affiliates, including all intellectual property rights therein and derivatives thereof or improvements thereto, or any other information relating to any research project, work in process, future development, scientific, engineering, service, manufacturing, marketing or business plans or financial or personnel matters relating to the Company or its Affiliates, or their present or future services, products, sales, suppliers, vendors, customers, employees, lenders or investors, and disclosed to or otherwise received by the City pursuant to this Chapter or the Cable Regulatory Ordinance.

For avoidance of doubt, Protected Information includes:

- a. information disclosed in a written or other tangible form which is clearly marked with a “confidential” or “proprietary” legend or other comparable legend;
- b. information disclosed orally or visually which is identified as confidential at the time of disclosure and confirmed in writing within a reasonable time;
- c. any personnel records or employee health data, including genetic information;
- d. any Customer Proprietary Information; and
- e. any other information which a reasonable person would deem confidential under the context of disclosure or due to the nature of the information. Except for Customer Proprietary Information (which will always continue as Protected Information without exception). “Protected Information” will not include information to the extent that:

(1) such information is or becomes publicly available other than through any act or omission of the City or its Representatives;

(2) such information was received by the City, other than under an obligation of confidentiality from a third party, which third party had no obligation of confidentiality to the Company; or

(3) such information was in the possession of the City at the time of the disclosure, or was independently developed by the City without reference to the Company's Protected Information.

20. "Public Right of Way" means the area on, below, or above a public roadway, highway, street, bridge, cart way, bicycle lane, or public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "Public Right of Way" does not include airwaves above any public right-of-way with regard to wireless facilities or services. "Public Right of Way" does not include utility poles owned by the City or its municipal utility.

21. "Regulatory Ordinance" is defined in the introductory paragraphs of this Chapter.

22. "Representative" means, as to any Person, any director, officer, member, manager, general partner, shareholder, employee, agent, consultant, advisor or other representative of such Person or its Affiliates, including legal counsel, accountants and financial advisors.

23. "Telecommunications Act" means the Telecommunications Act of 1996, as amended.

24. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

25. "Video Service" means Cable Service or any other Video Programming provided by the Company, without regard to delivery technology, including Video Programming provided utilizing Internet protocol television (IPTV) technologies. "Video Service" does not include any Video Programming service or other service provided solely as part of, and via, a data communications service that enables users to access or stream content, information, electronic mail, or other services offered over the public Internet.

26. "Video System" means the Company's wireline communications facilities located at least in part in the Public Right of Way and designed to provide Video Service to multiple customers within the Franchise Area.

7-2-2 REGULATORY AUTHORITY. The Company's operation of its Video System shall be governed by this Chapter only to the extent that the City is permitted to exercise its power as a local franchising authority with respect to the Company's Video Service under applicable Legal and Regulatory Requirements. Without limiting the City's otherwise lawful authority under other applicable City codes and ordinances, this Chapter shall authorize and regulate the Company's use and occupancy of the Public Right of Way within the City for the purpose of providing Video Service over its Video System. The provisions of this Ordinance are intended and shall be applied and construed in such a manner as to govern the Company's use and occupancy of public rights

of-way in competitively neutral and nondiscriminatory manner as compared to other public and private utilities using and occupying such rights-of-way, including any municipal utility. Nothing in this Chapter shall be interpreted or construed to impose any requirement that has the purpose or effect of prohibiting, limiting, restricting or conditioning the provision of telecommunications services or other communications or data services by the Company or any of its Affiliates.

7-2-3 GRANT OF FRANCHISE. The Company is hereby granted a renewal of its Franchise, conferring upon the Company, its successors and assigns, a nonexclusive right, license and authority to construct, operate and maintain a Video System for the purpose of providing Video Service to end user customers located in the Franchise Area. The Franchise includes the right of the Company to construct, install, maintain, operate, repair replace and remove facilities and equipment comprising the Video System in the Public Right of Way throughout the Franchise Area.

7-2-4 TERM AND RENEWAL. The renewal term of the Franchise shall commence upon expiration of the Cable Franchise Ordinance (December 10, 2012) and shall continue for a period of ten (10) years. At the end of this renewal term and any subsequent renewal term(s), the Company may apply for a subsequent renewal of the Franchise by giving written notice to the City not less than ninety (90) days prior to the expiration of the Franchise. In determining whether to grant any subsequent renewals, the City shall consider those factors prescribed by Federal law, including (i) whether the Company has substantially complied with the material terms of the Franchise and with applicable Legal and Regulatory Requirements; (ii) the extent and quality of the Company's Video Service; (iii) whether the Company remains financially, legally and technically qualified to provide Video Service; and (iv) whether renewal of the Franchise promotes the Video Programming-related community needs and interests. The City may terminate the Franchise for cause as provided in the Regulatory Ordinance. In the event the Company elects to cease its operation of a Video System and to no longer provide Video Service, the Company may terminate the Franchise by submitting not less than ninety (90) days prior written notice to the City. The terms and provisions of this Ordinance that can only be given proper effect if they survive the termination of the Franchise will survive and remain enforceable notwithstanding the termination, rescission, or expiration of the Franchise, for any reason whatsoever. In addition, all provisions of this Ordinance will remain valid as to any obligation incurred prior to termination of the Franchise until such time as such obligations have been discharged. This Section specifically preempts and supersedes any additional or different franchise term or renewal conditions or requirements provided under the Regulatory Ordinance.

7-2-5 FRANCHISE FEE. For the term of the Franchise, the Company shall pay to the City an annual franchise fee of five percent (5%) of the Company's annual Gross Revenues received from subscribers for the provision of Video Service within the Franchise Area. The franchise fee shall be payable quarterly at the Clerk's office as provided in the Cable Regulatory Ordinance. Any franchise fees collected and paid under this Section may be credited to the City's general fund and used for the City's lawful general fund purposes. The Company may identify the franchise fee collected and paid under this Section as a separate line item on the regular bill of each subscriber. This Section specifically preempts and supersedes any additional or different franchise fee requirements provided under the Regulatory Ordinance.

7-2-6 PEG CAPITAL SUPPORT FEE. For the term of the Franchise, the Company shall pay the City an annual PEG capital support fee of fifteen cents (\$0.15) per subscriber per month. The PEG capital support fee shall be payable in the same manner as the franchise fee payments. Any PEG capital support fee collected and paid pursuant to this Section shall be used only for the support of public, educational and governmental access equipment and facilities. The PEG capital support fee shall not be deemed to be “franchise fees” and shall not be included in Gross Revenues for purposes of this Chapter or applicable Legal and Regulatory Requirements. The Company may identify the PEG capital support fee collected and paid under this Section as a separate line item on the regular bill of each subscriber. This Section specifically preempts and supersedes any additional or different PEG capital support fee requirements provided under the Regulatory Ordinance.

7-2-7 PEG CAPITAL GRANT. For the term of the Franchise, the Company shall provide the City with an annual capital grant in the amount of five hundred dollars (\$500.00). The PEG capital grant shall be payable on or before January 30 each year at the Clerk’s office as provided in the Cable Regulatory Ordinance. Any PEG capital grant paid pursuant to this Section shall be used solely for the acquisition and maintenance of capital equipment and facilities in support of educational and governmental programming. The PEG capital grant shall not be deemed to be “franchise fees” for purposes of this Chapter or applicable Legal and Regulatory Requirements. This Section specifically preempts and supersedes any additional or different PEG capital grant requirements provided under the Regulatory Ordinance.

7-2-8 PEG ACCESS EQUIPMENT AND CAPACITY. The Company shall not be required to provide PEG access equipment as provided under the Regulatory Ordinance. For the term of the Franchise, the Company shall designate a sufficient amount of channel capacity on the Video System to allow the provision of a comparable number of public, educational, and governmental channels that the Company has activated and provided in the Franchise Area under the terms of the Franchise Ordinance. If no such channels are active, the City may during the term of the Franchise request a maximum of two public, educational, and governmental channels in accordance with the qualifications and limitations set forth in the Cable Regulatory Ordinance. The public, educational, and governmental content to be provided pursuant to this Section and the operation of the public, educational, and governmental channels shall be the responsibility of the City, and the Company shall be responsible only for the transmission of such content, subject to technological restraints. The City shall ensure that all transmissions, content, or programming to be transmitted by the Company pursuant to this Section are provided or submitted to the Company in a manner or form that is capable of being accepted and transmitted by the Company, without requirement for additional alteration or change in the content, over the Video System, which is compatible with the technology or protocol utilized by the Company to deliver Video Service. At its election, the City may reasonably request the Company to make any necessary change to the form of any programming, furnished for transmission, which shall be charged to the City, not to exceed the Company’s incremental costs. In that case, the City shall have up to twelve (12) months to reimburse the Company for such costs. The provision of such transmissions, content, or programming to the Company shall constitute authorization for the Company to carry such transmissions, content, or programming, at the Company’s option, beyond the jurisdictional boundaries of the Franchise Area. This Section specifically preempts and supersedes any

additional or different PEG access equipment and capacity requirements provided under the Regulatory Ordinance.

7-2-9 INSTITUTIONAL NETWORK. For the term of the Franchise, the Company shall provide an Institutional Network comparable to the Institutional Network that the Company has provided in the Franchise Area under the terms of the Franchise Ordinance, including free service to the following locations within the City's Institutional Network:

- City Hall
- Fire Station
- Cascade Public Library
- Aquin System
- Western Dubuque Community Senior and Junior High School
- Western Dubuque Community Elementary School

The City may from time to time request reasonable additions or modifications to the Institutional Network, provided that, (a) the total revenues forgone by the Company from the provision of Video Service to public institutions, public or parochial schools, or civic and governmental entities at no charge shall be limited to an amount not to exceed the existing total of forgone revenues associated with providing such services to such institutions and (b) the total amount of direct or indirect financial support provided for an Institutional Network shall be limited to ongoing maintenance and support of the existing Institutional Network. For the purposes of this Section, maintenance and support shall only include the reasonable incremental cost of moves, changes, and restoring connectivity of the fiber or coaxial cable lines up to a demarcation point at any location within the Institutional Network. This Section specifically preempts and supersedes any additional or different Institutional Network requirements provided under the Regulatory Ordinance.

7-2-10 BONDING REQUIREMENTS. For the term of the Franchise and provided that the Company maintains its principal place of business within the Franchise Area, the Company shall not be required to provide any form of performance or surety bond as provided under the Regulatory Ordinance.

7-2-11 CUSTOMER SERVICE STANDARDS. The Company shall comply with customer service standards consistent with those contained in applicable FCC Rules, and shall maintain a local toll-free telephone number for customer service contacts. This Section specifically preempts and supersedes any additional or different customer service standards provided under the Regulatory Ordinance.

7-2-12 TECHNICAL STANDARDS. The Company shall comply with technical standards consistent with those contained in applicable FCC Rules. This Section specifically preempts and supersedes any additional or different technical standards provided under the Regulatory Ordinance.

7-2-13 NONEXCLUSIVE FRANCHISE; EQUAL PROTECTION. The Franchise is nonexclusive and shall in no way prevent the City from granting or renewing any other franchise for Cable Service or Video Service in accordance with applicable Iowa and Federal laws. In the event the City enters into a franchise, permit, license authorization or other agreement of any kind

with any Person other than the Company, to use or occupy the Public Right of Way for the purpose of constructing, operating or maintaining a system for providing Cable Service or Video Service to any part of the Franchise Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one service provider not be granted an unfair competitive advantage or another service provider, and to provide all Persons equal protection under the law.

**7-2-14 CONSTRUCTION AND INSTALLATION.** The Company shall construct, install, maintain, operate, repair, replace and remove the Video System in a manner consistent with accepted technical and engineering standards and in accordance with all applicable Legal and Regulatory Requirements. All facilities and equipment comprising the Video System and located in the Public Right of Way shall be located so as to cause minimum interference with the proper use of the Public Right of Way and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any Public Right of Way. In case of any facilities or equipment causing interference with the Public Right of Way, the Company shall, at its own cost and expense and in a commercially reasonable manner, modify, remove or relocate such facilities or equipment. In the event that at any time during the term of the Franchise the City lawfully elects to alter or change any street, alley or other Public Right of Way, the Company shall, if necessary and upon reasonable notice from the City, modify, remove or relocate any facilities or equipment at its own cost an expense and in a commercially reasonable manner, provided that where public funds are available to compensate for such removal or relocation under applicable Legal and Regulatory Requirements, the Company shall not be required to pay such costs. Decisions concerning the need for relocation of facilities shall be made and applied to all users of the affected Public Right of Way (including the City and any of its Affiliates) in a competitively neutral and nondiscriminatory manner. In connection with any construction, reconstruction, maintenance or repair project, the City and the Company shall communicate and coordinate with each other (and with other private and public utility companies utilizing the affected Public Right of Way and any third party contractors involved with any project) in a timely and open manner in order to limit the potential need for relocation of facilities and to minimize costs and disruption of utility services in connection with any required relocations. In case of any disturbance or damage to a Public Right of Way, the Company shall, at its own cost and expense and in a commercially reasonable manner approved by the City, replace and restore such right of way to as good a condition as before the Company's activities were commenced. This Section specifically preempts and supersedes any additional or different construction and installation requirements provided under the Regulatory Ordinance.

**7-2-15 SERVICE EXTENSIONS.** The Company shall provide service to residents on a nondiscriminatory basis, and shall not deny access to Video Service to any resident or neighborhood on the basis of income. The Company shall serve all residents of the City, except to the extent that density of homes, adverse terrain or other factors render providing service commercially impracticable or technically infeasible. For purposes of determining compliance with the provisions of this Section, and to provide for a commercially reasonable and non-discriminatory policy governing extensions of video service within the City, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers taking the same service, where there is an average of at least forty-five (45) homes per each linear mile of new facilities construction. In the event the requirements of this Section are not met, extensions of Video Service shall be required only on a basis which is commercially reasonable.

Nothing in the preceding shall prohibit the Company from offering Video Service in any area not meeting the preceding density requirements on terms acceptable to the Company. This Section specifically preempts and supersedes any additional or different service extension standards provided under the Regulatory Ordinance.

**7-2-16 OWNERSHIP AND REMOVAL.** The Video System shall be and remain the exclusive property of the Company at all times and for all purposes. Any costs, expenses, taxes or other assessments arising from or related to the construction, installation, maintenance, operation, repair, replacement and removal of the Video System shall be the sole responsibility of the Company. Upon expiration or termination of the Franchise in accordance with this Chapter, the Company shall, upon written request of the City, at its own cost and expense and within a commercially reasonable time under the circumstances, remove all facilities and equipment comprising the Video System and restore the Public Right of Way to as good a condition as before the Company's activities were commenced. In the event the Company fails to remove its facilities and equipment within a reasonable time after the written request of the City, the City may accept bids for a contract to remove the facilities and equipment. The Company shall have the right to bid on such a contract. The City may award the contract to the appropriate bidder and charge the costs of such contract to the Company. The provisions of this Section shall not apply to facilities or equipment of the Company which are buried; provided, however, the Company shall transfer ownership to the City of any buried facilities and equipment which are not removed. Nothing in this Section shall require the Company to remove or transfer ownership of any facilities or equipment comprising the Video System so long as such facilities or equipment are being utilized by the Company or an Affiliate to provide telecommunications services or other communications or data services to subscribers within the City.

**7-2-17 CONFIDENTIALITY OF PROTECTED INFORMATION.** Any Protected Information of the Company, and the results derived in any way from such information, is and will remain the sole and exclusive property of the Company, and the City has no right or license in or to the Company's Protected Information. Protected Information of the Company that has been disclosed to the City will be maintained in confidence by the City, which will safeguard this information using the same degree of care as it uses to safeguard its own Protected Information, but in no case less than a reasonable degree of care. Without limiting the preceding, the City will (a) limit access to the Company's Protected Information to those of its Representatives with a need to know such Protected Information for the performance of the City's responsibilities and obligations under this Chapter and the Regulatory Ordinance and (b) limit use of the Company's Protected Information for the exclusive purpose of fulfilling its obligations and responsibilities under this Chapter and the Regulatory Ordinance. The City has established and will maintain commercially reasonable safeguards against the destruction, loss, alteration of or unauthorized use of or access to the Company's Protected Information in the possession of the City or its Representatives, which safeguards will include policies for the disposal/destruction of any such data that are commensurate with the sensitivity of the materials to be disposed of or destroyed. The City warrants that it will take all steps necessary to ensure fulfillment of this obligation and will take all reasonable measures, including court proceedings, to restrain its Representatives from unauthorized disclosure or use of the Company's Protected Information. In the event a subpoena or other legal process is served upon the City that, pursuant to the requirement of a Governmental or Regulatory Authority, requires the disclosure of the Company's Protected Information, the City

will notify the Company promptly upon receipt of such subpoena or other request for legal process (unless such notice is prohibited by applicable Legal or Regulatory Requirements), and will cooperate with the Company, at the Company's expense, in any lawful effort by the Company to contest the legal validity or scope of such subpoena or other legal process.

7-2-18 **LEGAL COMPLIANCE; SEVERABILITY.** The rights and obligations of the Company and the City under this Chapter shall be subject to, and are intended to comply in all respects with, all applicable Legal and Regulatory Requirements. Each party agrees to take all such further acts and execute all such further documents as the other party reasonably may request to fulfill their respective obligations under this Chapter or to assist the requesting party in complying with all Legal and Regulatory Requirements applicable to such party's rights and obligations under this Chapter. Every provision of this Chapter is intended to be severable. If any provision hereof is invalid or unenforceable for any reason whatsoever under the applicable Legal and Regulatory Requirements of a particular jurisdiction, this Chapter will be construed and enforced as if the invalid or unenforceable provision were not a part of this Chapter for purposes of that jurisdiction, and the remaining provisions of this Chapter will remain in full force and effect and will not be affected by the invalid or unenforceable provision or by its severance from this Chapter. Moreover, a provision as similar in terms to the invalid or unenforceable provision as may be possible and be valid and enforceable in the applicable jurisdiction will be substituted automatically as part of this Chapter in lieu of the illegal, invalid or unenforceable provision. If applicable Legal and Regulatory Requirements are subsequently amended or interpreted by an appropriate Governmental or Regulatory Authority in a way that causes any provision of this Chapter that was formerly invalid or unenforceable to become valid or enforceable, that provision (to the extent that it subsequently becomes valid and enforceable) will be considered to be adopted as part of this Chapter as of the effective date of that amendment or interpretation.

7-2-19 **FORCE MAJEURE.** The Company shall not be liable for any delay or failure in performance of any part of its obligations under this Chapter from any cause beyond its control and without its fault or negligence, including acts of God, acts of civil or military authority, government regulations, adverse judicial proceedings, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation common carriers.

7-2-20 **ASSIGNMENT OR TRANSFER.** The Company shall not assign or transfer any right granted under this Chapter to any other Person without the prior written consent of the City; provided that such prior written consent shall not be unreasonably withheld or delayed if the proposed assignee or transferee agrees in writing to assume the Company's obligations under this Chapter, including compliance with the terms and conditions of this Chapter and the applicable provisions of the Regulatory Ordinance. Notwithstanding the preceding or anything in this Chapter or the Regulatory Ordinance to the contrary, no restrictions or special rights with respect to assignment or transfer of the Franchise or the Video System shall apply to transfers from the Company to any Affiliate of the Company. This Section specifically preempts and supersedes any additional or different assignment or transfer restrictions or rights provided under the Regulatory Ordinance.

7-2-21 **THIRD PARTY LIABILITY.** Nothing in this Chapter shall be deemed to create civil liability by one party for actions, omissions or negligence of the other party, or of the other party's agents, employees, officers or assigns. This Chapter shall not be interpreted or construed to provide any third parties (including, but not limited to the Company's customers) with any remedy, claim, liability, reimbursement, cause of action or any other right as against the Company or the City. Each of the Company and the City shall bear responsibility for its own actions, omissions and negligence. Without limiting the preceding, the Company shall hold the City harmless from any claim, liability or damage arising from or caused by the Company's activities under the Franchise.

7-2-22 **NOTICES.** All notices, consents, waivers, and other communications under this Chapter or the Regulatory Ordinance must be in writing and will be deemed to have been duly given when (a) delivered by hand (with confirmation of receipt), (b) sent by email or facsimile (with confirmation of receipt), provided that a copy is mailed by registered mail, return receipt requested or (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the address of the receiving party designated below, as such address may be modified by notice given in accordance herewith.

If to the City:

City of Cascade, Iowa  
Cascade City Hall  
320 First Avenue West, PO Box 400  
Cascade, IA 52033  
Fax: (563) 852-7554  
Email: [cascadecity@netins.net](mailto:cascadecity@netins.net)  
cascadeclerk@netins.net

If to the Company:

Cascade Communications Company  
Attn: General Manager  
106 Taylor Street SE, PO Box 250 Cascade, IA 52033  
Fax: (563)-852-3710  
Email: dave@cascadecomm.com

7-2-23 **EMERGENCY ALERT SYSTEM.** The Company shall comply with all current and subsequent FCC Rules concerning the maintenance, operation and testing of an Emergency Alert System.

7-2-24 **LEGAL EFFECT; OTHER ORDINANCES.** This Chapter and applicable provisions of the Regulatory Ordinance contain the entire agreement between the City and the Company regarding the Franchise. Any ordinance or provision of any ordinance inconsistent with the provisions of this Chapter is hereby repealed, including without limitation the following provisions of the Regulatory Ordinance:

§ 113.03 § 113.11  
§ 113.04 § 113.12

§ 113.19      § 113.27 § 113.35  
§ 113.20      § 113.28      § 113.36

§ 113.05 § 113.13	§ 113.21	§ 113.29	§ 113.42
§ 113.06 § 113.15	§ 113.22	§ 113.30	§ 113.43
§ 113.08 § 113.16	§ 113.23	§ 113.31	§ 113.51
§ 113.09 § 113.17	§ 113.24	§ 113.33	
§ 113.10 § 113.18	§ 113.26	§ 113.34	

The Company shall comply with the terms of any lawfully adopted or amended generally applicable local ordinance (including the Regulatory Ordinance), to the extent the provisions of such ordinance do have the effect of limiting the benefits or expanding the obligations of the Company under this Chapter. In the event of any conflict between this Chapter and any ordinance (including the Regulatory Ordinance) this Chapter shall control. Neither party may unilaterally alter the material rights nor obligations set forth in this Chapter.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 3 REGULATION OF CABLE TELEVISION RATES**

7-3-1	Administration of Rules and Regulations	7-3-4	Cable Programming Service Tier
7-3-2	Rate Regulation Proceedings	7-3-5	Delegation of Powers Permitted
7-3-3	Certification to FCC and Cable Operator		

7-3-1    **ADMINISTRATION OF RULES AND REGULATIONS.** The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 et. seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

7-3-2    **RATE REGULATION PROCEEDINGS.** Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362 of the Code of Iowa and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.

2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.

3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.

4. In the course of the rate regulation proceeding, the City may require additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by this Code of Ordinances to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rates or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Iowa, the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

7-3-3 CERTIFICATION TO FCC AND CABLE OPERATOR. The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

7-3-4 CABLE PROGRAMMING SERVICE TIER. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

7-3-5 DELEGATION OF POWERS PERMITTED. The City may delegate its powers to enforce this chapter to municipal employees or officers (the “cable official”). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
9. Take actions and make decision or recommend decisions in conformity with this chapter.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 4 CABLE TELEVISION CUSTOMER SERVICE STANDARDS**

7-4-1	Enforcement of Customer Service Standards	7-4-3	Rules and Procedures
		7-4-4	Penalty
7-4-2	Notification		

7-4-1 **ENFORCEMENT OF CUSTOMER SERVICE STANDARDS.** The City has the legal authority to adopt and enforce customer service standards for the cable television system in the City as permitted by the Cable Television Consumer Protection and Competition Act of 1992. Upon review of the customer service standards adopted by the FCC on March 11, 1993, by MM Docket No. 92-263 of the FCC, and deeming it in the best interests of the City, the Council hereby adopts by reference the above mentioned customer service standards for cable television service.

7-4-2 **NOTIFICATION.** The Clerk shall notify the Cable Operator by registered mail with return receipt that the City has adopted said customer service standards for cable television service, to become effective upon written notification to cable operator.

7-4-3 **RULES AND PROCEDURES.** The Cable Commission appointed by the Council shall establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator. The Commission shall provide for notice and opportunity for hearing for both the customers and the Cable Operator in such process.

7-4-4 **PENALTY.** If after notice and opportunity for hearing, the City determines that the Cable Operator is not in complete compliance with all the provisions of the customer service standards, the Cable Operator shall reduce the rate for the basic tier of cable service by twenty-five percent (25%) until such time that the City has been satisfied that the Cable Operator is in compliance with all the provisions of the customer service standards. In addition, the Cable Operator shall pay to the City the sum of \$100.00 for each day that the Cable Operator fails to be in compliance with all the provisions of the standards after the date that the Council has passed a resolution stipulating the sections where the Cable Operator is in noncompliance.

### **CHAPTER 4A UNDERGROUND INSTALLATION OF WIRE AND CABLE**

#### **4A.01 Purpose**

#### **4A.02 Cable Installation**

4A.01 **PURPOSE.** The purpose of this chapter is to provide for uniform standards for the installation of all cable, wire and conduit carried underground to prevent the cutting of cable and interruption of services provided to residents of the community.

4A.02 CABLE INSTALLATION. All cable, wire and conduit installed beneath the ground surface by all utility and cable companies shall be at a depth of at least eighteen (18) inches beneath the surface of the ground.

## CHAPTER 4B UNDERGROUND UTILITIES

4B.01 Purpose 4B.04 Exception to Burial  
4B.02 Definitions 4B.05 Condition of Occupancy  
4B.03 Burial Required

4B.01 PURPOSE. The placement of electric and telecommunication lines underground is desirable and improves the appearance of neighborhoods, business districts and industrial areas and adds protection of the lines from the natural elements.

4B.02 DEFINITIONS. For purposes of this chapter the following terms are defined:

1. Easement means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.

2. Public right-of-way means the area between property lines dedicated to and accepted by the city for public use providing access to abutting properties and providing routes for public utilities.

3. Telecommunication line means a telephone, fiber optic or other like or similar conductor.  
4B.03 BURIAL REQUIRED. All new utility conductors, extensions, feeders, loops or other means of service or distribution of electric and telecommunications shall be placed underground in designed utility easements and/or public right-of-way in accordance with applicable electrical and safety codes and no less than a minimum depth of eighteen (18) inches from finished grade.

4B.04 EXCEPTION TO BURIAL. The following exceptions shall be allowed.

1. The repair and maintenance of existing overhead lines.
2. Electrical transmission lines in excess of 34 kilovolts.
3. Temporary service lines whose use shall not exceed twelve (12) months.
4. Poles used exclusively for street lighting
5. Antenna associated with supporting structures and associated equipment used by a utility or person for furnishing or receiving communication services.
6. Equipment used to service underground utilities such as ground mounted transformers, pedestals and cabinets.
7. Overhead conductors attached to the exterior service of a building by means of a bracket or fixtures and extending from one location of the building to another location on the same building or adjacent building without crossing any public right-of-way.
8. Upon council approval following a Planning & Zoning

Commission recommendation when a utility provider has proven that underground placement is impractical or not technically feasible due to topography, soil conditions or other existing conditions that adversely affect underground placement.

4B.05 CONDITIONS OF OCCUPANCE. Utility providers placing utilities in the city's right-of-way and utility easements shall install, operate and maintain those utilities at their own expense. Following a utility providers disturbance of a city right-of-way or utility easement the utility provider shall return the right-of-way or utility easement to the same condition existing immediately prior to such disturbance and in compliance with the city's street excavation policy. If the location of utilities are in physical conflict with city utilities or proposed utilities, the utility provider shall relocate its utilities at its expense upon notice by the city.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 5 HOUSE MOVERS**

7-5-1	House Movers Defined	7-5-7	Permit Issue
7-5-2	Permit Required	7-5-8	Public Safety
7-5-3	Application	7-5-9	Time Limit
7-5-4	Bond Required	7-5-10	Removal by City
7-5-5	Insurance Required	7-5-11	Protect Pavement
7-5-6	Permit Fee	7-5-12	Above Ground Wires

7-5-1 **HOUSE MOVERS DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

7-5-2 **PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

7-5-3 **APPLICATION.** Application for a house mover’s permit 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, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

7-5-4 **BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

7-5-5 **INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$100,000 per person; \$300,000 per accident.
2. Property Damage - \$50,000 per accident.

7-5-6 PERMIT FEE. A permit fee of twenty-five dollars (\$25.00) 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.

7-5-7 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

7-5-8 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

7-5-9 TIME LIMIT. No house mover 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.

7-5-10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

7-5-11 PROTECT PAVEMENT. It is 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 are at least one (1) 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 City as to such weight shall be final.

7-5-12 ABOVE GROUND WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 6 ADULT ORIENTED ESTABLISHMENTS**

7-6-1	Purpose	7-6-5	Responsibilities of Operator
7-6-2	Definitions	7-6-6	Minors
7-6-3	Location Restrictions	7-6-7	Hours of Operation
7-6-4	Development Design Standards		

#### **7-6-1 PURPOSE. The City of Cascade finds:**

1. Adult-oriented establishments require special consideration in order to protect and preserve the health, safety and welfare of the patrons of such establishments as well as the citizens of Cascade;
2. Adult-oriented establishments, because of their very nature, have a detrimental effect on both existing establishments around them and surrounding residential areas adjacent to them;
3. The concern over sexually-transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the community;
4. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area;
5. The City of Cascade wants to minimize these adverse effects and thereby protect the health, safety and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
6. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments.

#### **7-6-2 DEFINITIONS.**

1. "Adult Bookstore", an establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.

2. “Adult Entertainment”, any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

3. “Adult Motion Picture Theater”, an enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as described below for observation by patrons of the building.

4. “Adult-Oriented Establishment”, any premises including, without limitation, “adult bookstores” or “adult motion picture theaters.” It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or maintained for profit, direct or indirect. “Adult-Oriented Establishment” further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, or any other term of like import.

5. “Operators”, any person, partnership or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

6. “Specified Anatomical Areas”, less than completely and opaquely covered human genitals, buttocks, female breasts below the areola; or, male genitalia.

7. “Specified Sexual Activities”, simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of sexual activity, sodomy, or sado-masochism; or (c) fondling or erotic touching of human genitals, buttocks or female breasts.

**7-6-3 LOCATION RESTRICTIONS.** An adult oriented establishment shall be permitted within the City of Cascade only in the Heavy Industrial (M2) Zoning District upon receipt of a site plan and special exception use permit in accordance with the procedures set forth in Section 165.33 of the Cascade Zoning Ordinance and only if it meets all of the location requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district boundary line from which the proposed adult entertainment business is to be separated.

1. Adult-oriented establishments shall be prohibited in or within sixteen hundred (1,600) feet of the borders of a residential district.

2. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any church, synagogue, mosque, temple or other place of religious worship.

3. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any public or private school offering general education for students between the years of kindergarten and twelfth grade.

4. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any daycare home or daycare business.

5. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any public park or playground. For purposes of this section, bike paths, trails, waterways and boat launches shall be deemed a public park.

6. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any other adult entertainment establishment.

7. Adult-oriented establishments shall be prohibited within sixteen hundred (1,600) feet of any existing establishment selling alcoholic beverages for consumption on premises.

#### 7-6-4 DEVELOPMENT DESIGN STANDARDS.

1. Exterior. It shall be unlawful for an owner of an adult-oriented establishment:

a. To allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

b. To allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.

c. To allow exterior portions of the establishment to be painted other than a single color.

2. Signage. The operator shall comply with Section 165.11.M-2.F.2 of the Cascade Zoning Ordinance. Additionally, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings or pictorial representations of any manner, except for the name of the enterprise.

7-6-5 RESPONSIBILITIES OF THE OPERATOR. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

7-6-6 MINORS. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person

under the age of eighteen (18) years of age from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid drivers license issued by a state reflecting that person's age.

7-6-7 HOURS OF OPERATION. An adult-oriented establishment may remain open for business no longer than the hours from between 12:00 PM (Noon) to 2:00 AM, seven days a week.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 7 VACATION AND DISPOSAL OF STREETS**

7-7-1	Power to Vacate	7-7-5	Disposal of Vacated Streets or
7-7-2	Planning and Zoning Commission		Alleys
7-7-3	Notice of Vacation Hearing	7-7-6	Disposal by Gift Limited
7-7-4	Findings Required		

7-7-1 **POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

7-7-2 **PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street or alley shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

7-7-3 **NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

7-7-4 **FINDINGS REQUIRED.** No street or alley, or portion thereof, shall be vacated unless the Council finds that:

1. **Public Use.** The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

(Code of Iowa, Sec. 364.15)

7-7-5 **DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, or portion thereof, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

7-7-6 **DISPOSAL BY GIFT LIMITED.** The City may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

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

### EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
64	10-1-45	220-88	8-8-88
65	6-6-46	225-89	8-28-89
66	4-8-47	226-89	8-28-89
67	5-5-47	228-89	10-9-89
68	6-6-47	230-89	12-26-89
73	5-1-50	231-90	2-12-90
76	12-4-50	232-90	5-14-90
78	9-10-51	233-90	5-14-90
79	8-4-52	236-90	7-9-90
81	7-6-53	237-90	10-22-90
82	7-6-53	248-92	2-10-92
94	7-7-59	249-92	3-9-92
105	10-2-61	252-92	4-27-92
106	10-2-61	283-94	10-24-94
116	11-16-65	308-97	2-10-97
117	11-16-65	310-97	2-24-97
118	11-16-65	331-99	5-24-99
123	1-2-67	01-00	3-27-00
128	6-10-68	41-03	6-23-03
154	5-17-75	53-04	7-26-04
171	7-10-78	71-06A	3-27-06
202	4-22-85	72-06A	3-27-06
209-86	9-8-86	75-06	7-24-06
213-86	12-8-86	82-06	12-27-06
217-88 ORDINANCE NO.	4-11-88 ADOPTED	92-07	9-24-07
4-10	2-22-10		
6-10	4-26-10		
13-10	9-13-10		
14-10	10-11-10		
17-10	12-28-10		
21-11	3-28-11		

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 8 STREET GRADES**

7-8-1 Established Grades

7-9-2 Record Maintained

7-8-1 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

7-8-2 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

#### **EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
33	March 31, 1927
33A	February 24, 1958
108	April 10, 1962
251-92	March 23, 1992
281-94	June 13, 1994
26-01	November 26, 2001
51-04	May 24, 2004
68-06	January 9, 2006
76-06	August 28, 2006

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 9 NAMING OF STREETS**

7-9-1	Naming New Streets	7-9-4	Official Street Name Map
7-9-2	Changing Name of Street	7-9-5	Revision of Street Name Map
7-9-3	Recording Street Names		

7-9-1 **NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. **Extension of Existing Street.** Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. **Resolution.** All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. **Planning and Zoning Commission.** Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

4. In general, streets running east and west shall be named “streets”. Streets running north and south shall be named “avenues”. Streets that loop around and exit in the same direction as they enter shall be named “courts”. Streets that end in a cul-de-sac shall be named “lanes”.

7-9-2 **CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

7-9-3 **RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

7-9-4 **OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: “This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Cascade, Iowa.”

7-9-5 **REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: “On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the Mayor and attested by the Clerk.

**EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted opening streets and remain in full force and effect.

ORDINANCE NO.	ADOPTED	STREET(S)
25-01	1-8-01	4th Avenue SE, Bucknam Avenue SE; and Thomas Street SE.
42-03	6-3-03	176' Portion of 2nd Ave., SE Alley
76-06	8-28-06	6th Avenue SE, between Adams St SE & Dillon St SE
93-07	9-24-07	Industrial Street SE, between 1st Ave E and 2nd Ave SE
130-09	12-14-19	7 <sup>th</sup> Avenue SE between Adams St SE & Dillon St SE

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 10 CONTROLLED ACCESS FACILITIES**

7-10-1 Exercise of Police Power  
7-10-2 Definition  
7-10-3 Right of Access Limited

7-10-4 Access Controls Imposed  
7-10-5 Permitted Access Points  
7-10-6 Parking Restricted

7-10-1 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

7-10-2 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

7-10-3 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to, from or across any controlled access facility to or from abutting land, except at such designated points at which access may be permitted.

(Code of Iowa, Sec. 306A.4)

7-10-4 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Iowa Highway No. 136. On relocated route of Iowa No. 136 from the south corporation line (Station 411 + 94) northerly to a point 165.7 feet north of the center of National Street (Station 436 + 03) identified as Project No. F-814 and in conformance with the plans therefor on file in the office of the Clerk.

2. Iowa Highway No. 151. On Iowa No. 151 from First Street to the River Bridge in East Cascade on National Street and from John Street to Pontiac Street on National Street in West Cascade identified as Project No. FN-17 and Project No. F-86(3) and in conformance with the plans therefor on file in the office of the Clerk.

7-10-5 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

1. Iowa No. 136. Permitted access points on Iowa No. 136, Project No. F-814 are:

STATION	SIDE	WIDTH	USE
419+88	West	22 feet	Farm
419+88	East	16 feet	Farm
426+54	West	24 feet	Commercial
427+25	East	24 feet	Residential
430+35	West	16 feet	Residential
432+17	West	18 feet	Residential
433+11	East	34 feet	Commercial
433+68	East	41 feet	Commercial
433+88	West	35 feet	Commercial
435+05.2	West	35 feet	Commercial
435+59.2	West	35 feet	Commercial
0+53	West (N. Side 151)	35 feet	Commercial

2. Iowa No. 151. Permitted access points on Iowa No. 151, Project No. FN-17 and F-86 (3) are:

STATION	SIDE	WIDTH	USE
100-47	Right (N)	36 feet	Commercial
101-28	Right (N)	26 feet	Commercial
101-54.5	Right (N)	27 feet	Public
101-58	Left (S)	16 feet	Residential
102-35	Left (S)	16 feet	Residential
102-53	Right (N)	15 feet	Residential
103-35	Right (N)	15 feet	Residential
103-67	Left (S)	19 feet	Residential
104-38	Left (S)	19 feet	Residential
105-13.5	Left (S)	15 feet	Residential
105-30	Left (S)	13 feet	Residential
105-61	Right (N)	22 feet	Residential
106-17	Right (N)	9 feet	Residential
106-30	Right (N)	13 feet	Residential
107-32	Left (S)	15 feet	Residential
107-66	Left (S)	40 feet	Commercial
108-40	Left (S)	40 feet	Commercial
108-49	Right (N)	14 feet	Residential
109-11	Right (N)	16 feet	Residential
111-12	Right (N)	17 feet	Residential
111-84	Right (N)	16 feet	Residential
115-06	Right (N)	15 feet	Residential
115-24	Left (S)	14 feet	Residential
115-93	Right (N)	16 feet	Residential
116-54	Right (N)	13 feet	Residential
117-27	Right (N)	17 feet	Residential

118-00	Left (S)	18 feet	Residential
118-88	Right (N)	25 feet	Residential
119-25	Left (S)	21 feet	Commercial
120-81	Right (N)	16 feet	Residential
121-13	Left (S)	26 feet	Commercial
121-97	Right (N)	18 feet	Residential
0-44	Right (N)	59 feet	Commercial
0-65	Left (S)	101 feet	Commercial
1-73	Left (S)	21 feet	Residential
2-14	Right (N)	17 feet	Residential
3-05	Left (S)	22 feet	Residential
4-87	Right (N)	25 feet	Residential
5-50	Right (N)	18 feet	Residential
6-61	Right (N)	16 feet	Residential
8-55	Right (N)	17 feet	Residential
9-54	Right (N)	16 feet	Residential
9-73	Right (N)	17 feet	Residential
10-16	Left (S)	15 feet	Residential
10-69	Right (N)	19 feet	Residential
10-89	Left (S)	17 feet	Residential
11-08	Left (S)	17 feet	Residential
11-32	Right (N)	18 feet	Residential
11-90	Left (S)	18 feet	Residential
13-72	Right (N)	12 feet	Residential
14-35	Left (S)	24 feet	Residential
15-58	Left (S)	39 feet	Commercial
16-87	Left (S)	37 feet	Commercial
1423-36	South	20 feet	Residential
1424-36	North	30 feet	Residential

7-10-6 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking is prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking is prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 11 TREES**

7-11-1	Definition	7-11-4	Trimming Trees to be Supervised
7-11-2	Planting Prohibited	7-11-5	Disease Control
7-11-3	Duty to Trim Trees	7-11-6	Inspection and Removal

7-11-1 **DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

7-11-2 **PLANTING PROHIBITED.** No person shall plant any tree or shrub in any parking or street.

7-11-3 **DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees currently 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. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

7-11-4 **TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 150.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

7-11-5 **DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

7-11-6 **INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. **Removal from City Property.** If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

(Code of Iowa, Sec. 364.12[3b & h])

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 12 DOWNTOWN COMMERCIAL BUILDINGS**

7-12-1 Downtown District  
7-12-2 Building Materials  
7-12-3 Color of Materials

7-12-4 Foundation  
7-12-5 Variance  
7-12-6 Hearing

7-12-1 DOWNTOWN DISTRICT. The area encompassed by this ordinance includes all buildings that front First Avenue from Johnson Street to the First Avenue Bridge over the North Fork Maquoketa River.

7-12-2 BUILDING MATERIALS. The frontage of all new construction or remodeling/reconstruction in the downtown district involving at least thirty percent (30%) of the total frontage shall be constructed of brick, stone, or wood.

7-12-3 COLOR OF MATERIALS. The City Administrator shall ensure the color of any materials to be stained, painted, or dyed is compatible with the remainder of the downtown district prior to the issuance of a building permit.

7-12-4 FOUNDATION. All new construction in the downtown district shall have a permanent concrete foundation.

7-12-5 VARIANCE. Any person may apply to the City Council for a variance to the provisions of 7-13-2 thru 7-13-4. Said application shall be in writing outlining the specific materials to be used and filed with the City Clerk.

7-12-6 HEARING. Upon application for a variance the City Council shall conduct a hearing upon said application. The Council may grant or deny the requested variance.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 13 NUMBERING OF BUILDINGS**

7-13-1	Numbering	7-13-6	Numbering Method
7-13-2	Size	7-13-7	Beginning Point
7-13-3	Color	7-13-8	Splitting Numbers
7-13-4	Responsibility	7-13-9	Addresses
7-13-5	Number Issuance		

7-13-1 **NUMBERING.** All buildings shall have the address numbers conspicuously displayed on that part of the building or on a permanent sign or monument facing the street of the numbered address.

7-13-2 **SIZE.** All address numbers shall be visible and legible from the street. All address numbers shall be not less than 3 inches in height and each numerical digit shall be a minimum of one-half (1/2) in width.

7-13-3 **COLOR.** The color of the numbers shall visually contrast with the color of the building so as to be clearly visible from the street.

7-13-4 **RESPONSIBILITY.** The owner of every building is responsible for ensuring compliance with this Chapter.

7-13-5 **NUMBER ISSUANCE.** The Cascade Zoning Administrator is responsible for assigning building numbers in the City of Cascade.

7-13-6 **NUMBERING METHOD.** Traveling from the beginning point, the center of town, even numbered building numbers shall be on the right hand side of the street and odd numbered building numbers shall be on the left hand side of the street. Building numbers shall advance sequentially in 4 number increments beginning with 100. Each successive block shall advance by 100 number increments. In general each 60 feet of frontage shall constitute a building number.

7-13-7 **BEGINNING POINT.** The North Fork Maquoketa River Bridge on 1st Avenue is the center of town and the beginning point of the building number system. The North Fork Maquoketa River is the East/West dividing line and 1<sup>st</sup> Avenue is the North/South dividing line in the City of Cascade.

7-13-8 **SPLITTING NUMBERS.** Where an existing building is subdivided, in an area that has already been assigned building numbers, and each has its own entrance, the newly created address shall be assigned a building number in two number sequential increments.

7-13-9 ADDRESSES. In writing an address, the building number shall be first given, followed by the name of the street, and that followed by the suffix indicating its direction from the beginning point, thus: 210 Harrison St., NW.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 14 INDUSTRIAL PROPERTY TAX EXEMPTIONS**

7-14-1	Purpose	7-14-6	Applications
7-14-2	Definitions	7-14-7	Approval
7-14-3	Period of Partial Exemption	7-14-8	Exemption Repealed
7-14-4	Amounts Eligible for Exemption	7-14-9	Dual Exemptions Prohibited
7-14-5	Limitations		

7-14-1 **PURPOSE.** The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to commercial and industrial real estate by the new construction, research-service facilities, warehouses, distribution centers and the acquisition of or improvement to machinery and equipment assessed as real estate.

7-14-2 **DEFINITIONS.** For use in this chapter the following terms are defined:

1. “Actual value added” means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.

2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. “New machinery and equipment assessed as real estate” means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph “e”, Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

5. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

6. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the Code of Iowa, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

7-14-3 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial or commercial real estate by the new construction of industrial real estate, research service facilities, warehouses, distribution centers, and the acquisition of or improvement to machinery and equipment assessed as real estate, is eligible to receive a partial exemption from taxation for a period of five (5) years.

7-14-4 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

7-14-5 LIMITATIONS. The granting of the exemption under this chapter for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial or commercial real estate before the start of the new construction added.

7-14-6 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

7-14-7 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty days after such hearing the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

7-14-8 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

7-14-9 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 15 TAX INCREMENT FINANCING**

7-15-1	Purpose	7-15-4	Urban Renewal Area
7-15-2	Intent	7-15-5	Provisions for Division of Taxes
7-15-3	Definitions	7-15-6	Expiration Date

7-15-1 **PURPOSE.** The purpose of this Chapter is to provide for the division of taxes levied on the taxable property in the Cascade Urban Renewal Area and its additions, each year by and for the benefit of the state, city, county school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Cascade to finance projects in such areas.

7-15-2 **INTENT.** The intent of this Chapter is to use Tax Increment Financing as a financial tool for assisting private enterprise and the construction of commercial and industrial facilities as authorized by law, and to provide public improvements and infrastructure to support development or site construction. A general scope of the urban renewal activities is to eliminate and prevent the development and spread of slums and blight and includes the designation and development of an economic area to assist qualified commercial and industrial businesses through the acquisition of property, construction of commercial and industrial buildings, development or improvement of necessary access roads, acquisition of machinery and equipment, provisions of public utilities, demolition and site preparation, sale of land, and job training for development purposes.

7-15-3 **DEFINITIONS.** For use in this chapter the following terms shall have the following meanings:

1. “City” shall mean the City of Cascade, Iowa.
2. “County” shall mean the Counties of Dubuque and Jones, Iowa.
3. “Urban Renewal Area” shall mean the geographical area designated the City of Cascade as appropriated for the elimination of slum, blight, and/or economic development.
4. “Tax Increment Financing” is the division of taxes levied on taxable property in an urban renewal area for the benefit of the state, city, county, school district, or other taxing districts.

7-15-4 **URBAN RENEWAL AREA.** The Cascade Urban Renewal Area and its Amendments are hereafter identified and set forth as follows:

Original Cascade Urban Renewal Area:

- Lots 1 & 2 of Beck Brothers Industrial Park Sub #2.

- Lot 1-1-1 NW NW, and buildings on leased land on Lot 1-1-1 NW NW; Lot 1 SW NW all in Section 32, T87N, R1W.
- Lot 1-2-2-1-1 NW NW Section 32, T87N, R1W.
- Lot 1-2-1-1 NW NW Section 32, T87N, R1W.
- Lots 1-1, 2, 3, 4, 5, 6 and 2-1 Beck Brothers Industrial Park Sub #2.
- Lots 1 & 2 in Beck Brothers Industrial Sub #3.
- Lot 4-2-2-1-1 NW NW Section 32, T87N, R1W.
- Lot 1-1 NE NW and Lot 2 NW NW in Section 32, T87N, R1W.
- Lot 1-2-1 NE NW Section 32, T87N, R1W.
- All of Blocks 1, 2, 4, 5, 6, 7, 12, 13, 14, and 15 and the East ½ of Vacated Dillon Street abutting Block 15, Second Union Addition, Cascade, Iowa.
- Kringle Industrial Park – Lot 1.
- Lot 1-2 SW NW Section 32, T87N, R1W.
- Freeman’s Addition Lots 35, 36, 37, 38, and 39; Lots 2-2-1-1 in Fangmann’s Home Farm; Lot 2-1-1-1 NW Section 31, T87N, R1W.
- Lot 1 Fangmann Place.
- Lot 1 a/k/a Lot 2-1-1 NW NW Section 31 in Fangmann Northern Natural Gas Co. Subdivision.
- Lots 1, 1-1-1-1-4, 1-1-1-6, 2, 2-1-1-1-4, 2-1-1-4, 2-1-1-6, 2-1-4, 2-1-6, 2-4, 2-6, and 3 in Benham’s Subdivision.
- Lots 300, 301, 351, and 309 through 346 and vacated streets and alleys abutting, all in Union Addition.
- Lots 1 & 2 in Martin Place #2.
- NE NE Section 31, T87N, R1W.
- Lots 1-1-1-1-1-1 SE NE, 2-1 SE NE, 2-1-1 SE NE, 2-1-1-1 SE NE, 2-1- 1-1-1 SE NE, 2-1-1-1-1 SE NE all in Section 31, T87N, R1W.
- All of Blocks 3, 8, 9, 10, 11, 16, and 17 in Second Union Addition and vacated streets and alley abutting.

#### 1998 Amendment:

- Removal of Lots 1, 2, 5, 6, 7, and 8 of Block 10; Lots 3 & 4 of Block 17; and that portion of vacated Langworthy Avenue abutting Lots 5 through 8 of Block 10, all in Union 2nd Addition Cascade, Iowa, Section 32, T87N, R1W, Dubuque County, Iowa.
- Addition of Lot 1 (.95 acres), Lot 2 (1.23 acres), Lot 2-7 (2.51 acres), a subdivision of Lot 1-7 of Kringle 2nd Industrial Park, Cascade, Iowa, in the NW¼, Section 32, T87N, R1W – Mike Beck.
- Addition of Lot 1-1-7 (3.00 acres), Lot 2-1-7 (3.00 acres), Lot 3-1-7 (3.00 acres), and Lot 4-1-7 (3.00 acres) a subdivision of Lot 1-7 of Kringle 2nd Industrial Park, Cascade, Iowa in the NW¼, Section 32, T87N, R1W – Cascade Economic Development Corporation.
- Addition of the right-of-way of 1st Avenue East from its intersection with Monroe Street SE to its intersection with Buchanan Street SW and the right-of-way of Buchanan Street SW from its intersection with 1<sup>st</sup> Avenue East to Parcel number 97-114.
- Addition of parcel numbers 97-114 in the Northerly 290 feet of Paul Dahlem Place in Cascade, Iowa lying within the NE¼, Section 1, T86N, R1W Jones County, Iowa – Sturm, Sturm, & Beecher, LC#3.

#### 2003 Amendment:

- Lot D except W 36', East Cascade – City of Cascade.
- Lot 1-2 & W 36' Lot D, East Cascade – David Rhomberg.
- Lot 3-1, Frank Otting Place – City of Cascade.
- Lot 2, Frank Otting Place – City of Cascade.
- Lot 2-4, East Cascade – Reece Lopez.
- Lot 3-4, East Cascade – Marty Knapp.
- Lot 1-1-12, Block 1, West Cascade – Jeremie Miller.
- Lot 2-12, Block 1, West Cascade – Nick Casey.
- E 36'8" Lot 11, Block 1, West Cascade – Callahan/Kurt.
- E 20'8" of the W 23'2" Lot 11, Block 1, West Cascade – Joyce Donovan.
- E 1/3 Lot 10 & W 1'1" Lot 11, West Cascade – Ross & Stan Orr.
- Middle 1/3 Lot 10, Block 1, West Cascade – Carol Coyle.
- W 1/3 Lot 10, Block 1, West Cascade – Julie Ehrisman
- E 2/3 Lot 9, Block 1, West Cascade – Julie Ehrisman.
- Lot 2-8 & W1/3 Lot 9, Block 1, West Cascade – Julie Ehrisman.
- Lot 1-8, Block 1, West Cascade – Geoff Zoller.
- Lot 12, Block 2, West Cascade – Jason Rauen.
- Lots 10 & 11, Block 2, West Cascade – City of Cascade.
- Lot 2-9, Block 2, West Cascade – City of Cascade.
- Lot 1-9, Block 2, West Cascade – Ohnward Bank & Trust.
- Lot 2-8, Block 2, West Cascade – Ohnward Bank & Trust.
- Lot 1-8 & E 1/3 Lot 7, Block 2, West Cascade – Ohnward Bank & Trust.
- Lots 1A-B & 2-B, East Cascade – Bill Hosch.
- Lot 1-B, East Cascade – Ron Benke.
- Lots 1-A, 4-A, 3-B, & 5-B, East Cascade – Ivan Kurt.
- Lot 2-A & Lot 4-B, East Cascade – Cascade Senior Citizens.
- Lots 1-3-A & Lot 1-6, East Cascade – Deb Manternach.
- Lot 2-6 & Lot 2-3-A, East Cascade – Ross & Stan Orr.
- Lots 1-5, 3-5, & 3-6, East Cascade – Geoff Zoller.
- Lots 1-2-5, 4-6, & 5-6, East Cascade – John McGuire.
- Lot 2-2-5, East Cascade – City of Cascade.
- Lot 1-1 & Lot 2-1, Block 4, West Cascade – Tom Simon.
- Lot 2, Block 4, West Cascade – Jeremie Miller.
- E 1/3/ Lot 3, Block 4, West Cascade – Jerry Lampe.
- E 1/2 W2/3 Lot 3, Block 4, West Cascade – Herb Manternach.
- W 1/2 W 2/3 Lot 3, Block 4, West Cascade – Daren Manternach.
- Lot 1-4, Block 4, West Cascade – Darren Manternach.
- Lot 2-4 & Lot 3-4, Block 4, West Cascade – Mike McDonald.
- E 2/3 Lot 1, Block 3, West Cascade – City of Cascade.
- W 1/3 Lot 1 & E 1/3 Lot 2, Block 3, West Cascade – Beecher Mgt.
- E 16' W 2/3 Lot 2, Block 3, West Cascade – Pat Moran.
- W 24' W 2/3 Lot 2, Block 3, West Cascade – Tammy Kramer.
- E 1/3 Lot 3, Block 3, West Cascade – Tammy Kramer.
- W 2/3 Lot 3, Block 3, West Cascade – Pat Orr.
- Lot 3-4, Block 3, West Cascade – Pat Orr.

- Lots 2-4 & 1-4, Block 3, West Cascade – Clark Hagen.
- E 2/3 Lot 5, Block 3, West Cascade – Clark Hagen.
- W 1/3 Lot 5 and Lot 6, Block 3, West Cascade – Clark Hagen
- The right-of-way of 1st Avenue West from its intersection with Buchanan Street to and including its intersection with Johnson Street.
- The right-of-way of Johnson Street NW from its intersection with 1<sup>st</sup> Avenue West to the US Highway 151 intersection.
- Lot-1 of Breitbach Addition – Steve Sauser.
- Lot-2 of Breitbach Addition that portion West of the North Fork Maquoketa River – Steve Sauser.

#### 2004 Amendment:

- Lot A, Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5, Koppes Industrial Park, City of Cascade, Dubuque County, Iowa consisting of 84.40 acres and identified as parcel numbers 19-32-176-007, 19-32-152-007, 19-32-152- 006, 19-32-152-005, 19-32-152-004, and 19-32-152-003 respectively and owed by Charles D. and Judith C. Koppes.
- Lot 3 and Lot 2-4, Kringle Second Industrial Park, City of Cascade, Dubuque County, Iowa consisting of 2.47 acres and identified as parcel numbers 19-32-152-001 and 19-32-152-002 respectively and owned by William D. Jr. Kringle.
- The South ½ of the 1st Avenue East right-of-way from Nixon Street SE to east quarter section line of Section 32, T87N, R1W.

#### 2006 Amendment:

- The right-of-way of Tyler Street NE from its intersection with 1<sup>st</sup> Avenue West, north to the intersection of US Highway 151.
- Lot 46, River Bend Subdivision, Parcel Number 18-36-227-003 – Callahan Construction.
- Lot 47, River Bend Subdivision, Parcel Number 18-36-276-006 – City of Cascade
- Lot 48, River Bend Subdivision, Parcel Number 18-36-276-005 – City of Cascade.
- Lot 50, River Bend Subdivision, Parcel Number 19-31-152-003 – City of Cascade
- The right-of-way of Pierce Street SW from 1st Avenue West to 2<sup>nd</sup> Avenue SW.
- Lot C of East Cascade, Parcel Number 19-31-360-001 – City of Cascade.
- Parcel east of Lot C and west of River, East Cascade, Parcel Number 19-31-360-002 - City of Cascade.
- Lot 2-1, Mill Reserve, Parcel Number 19-31-360-003 - City of Cascade.
- Lots 2-1 & 2-2, Mill Reserve, Parcel Number 19-31-360-004 - City of Cascade.
- Lot 1-1-1-1, Mill Reserve, Parcel Number 19-31-352-004 - City of Cascade.
- The alley right-of-way between Pierce Street SW and Buchanan Street SW along the north border of Lots 1-7, 8, 9, 10 & 11 East Cascade.
- Lot 1-7, East Cascade, Parcel Number 19-31-351-013 – Mary Schmidt.
- Lot 8, East Cascade, Parcel Number 19-31-351-012 – Bruce & Lisa Greenwood.
- Lot 9, East Cascade, Parcel Number 19-31-351-011 – Arlene Eisermann.
- Lots 10 & 11, East Cascade, Parcel Number 19-31-351-010 – Richard & Patricia Moore.
- The right-of-way of 2nd Avenue SW from Pierce Street SW to Lincoln Street SW.
- The alley right-of-way between Buchanan Street SW and Lincoln Street SW along the north boarder of Lot 1-5 and Lot 6, Block 4, West Cascade.

- Lot 6, Block 4, West Cascade, Parcel Number 18-36-486-010 – Geoffrey Zoller.
- Lot 2-5, Block 4, West Cascade, Parcel Number 18-36-486-009 – Amber Lopez.
- Lot 1-5, Block 4, West Cascade, parcel Number 18-36-486-008 – Merlin Koob.
- The right-of-way of Lincoln Street SW from 1st Avenue W to 2<sup>nd</sup> Avenue SW.
- The right-of-way of Lincoln Street SW from 1st Avenue W to 2<sup>nd</sup> Avenue SW.
- Lot 1-1 and 2-1, Block 5, West Cascade, Parcel Number 18-36-490-008
- Geoffrey Zoller.
- Lot 2, Block 5, West Cascade, parcel Number 18-36-490-007 – Geoffrey Zoller.
- East 1/3 of Lot 3, Block 5, West Cascade, Parcel Number 18-36-490- 006 – Geoffrey Zoller.
- The right-of-way of Johnson Street SW from 1st Avenue W to 5<sup>th</sup> Avenue SW (Dubuque/Jones County Line) in Dubuque County.
- The right-of-way of Johnson Street SW from 5th Avenue SW (Dubuque/Jones County Line) 1,172-feet south.
- That part of the following described premises lying west of the west right-of-way of State Highway No. 136: commencing at a point on the east line of Section 1, Township 86, North, Range 2, west of the 5th PM, 8.89 chains south of the northeast corner of the said Section, and running thence south 10.80 chains; thence west 4.29 chains; thence north 7.62 chains; thence east 11.29 chains to the place of beginning, except that portion contained in Lot-2 of the Subdivision of Lot –2 of Alfred Smith Place; and Lot-17, Shaffer’s 1st Addition to Cascade, Jones County, Iowa, except the portion thereof lying northerly of the drainage ditch running through the north part of said Lot, said excepted tract being approximately 75-feet north and south on the west line of said Lot and approximately 40-feet on the east line of said Lot – City of Cascade.
- Lot 1, Oak Hill #2, Oak Hill, LLP.
- Lot 2, Oak Hill #2, Oak Hill, LLP.
- Lots 1 thru 5, Block 20, West Cascade, Parcel Number 18-36-431-001 – Bruce Williams.
- The right-of-way of 4th Avenue NW between Lincoln Street NW and Johnson Street NW.
- The alley right-of-way between Lincoln Street NW and Johnson Street NW along the south border of Lots 1 thru 5, Block 20, West Cascade.
- Lot 1A, Frank Otting Place, 19-31-303-002 – City of Cascade.
- Lot 1B, Frank Otting Place, 19-31-303-003 – City of Cascade.
- Lot 1C, Frank Otting Place, 19-31-303-004 – City of Cascade.
- Lot 1-1, Frank Otting Place, 19-31-303-010 – City of Cascade.
- The alley right-of-way between Buchanan Street NW and Lincoln Street NW along the south border of Lots 2, 3, 4, 5, 6 & 7, Block 1, West Cascade.
- Lots 1 & 2, Block 1, West Cascade, Parcel Number 18-36-481-007 – City of Cascade.
- East ½ of Lot 3, Block 1, West Cascade Parcel Number 18-36-481-006 - City of Cascade.
- West ½ of Lot 3, Block 1, West Cascade Parcel Number 18-36-481-005
- City of Cascade.
- East ½ of the East ½ of Lot 4, Block 1, West Cascade Parcel Number 18-36-481-004 – City of Cascade.
- West ½ of the East ½ of Lot 4, Block 1, West Cascade Parcel Number 18-36-481-003 - City of Cascade.
- West ½ of Lot 4, Block 1, West Cascade Parcel Number 18-36-481-002
- City of Cascade.
- Lots 5, 7, & 7, Block 1, West Cascade Parcel Number 18-36-481-001 - City of Cascade.
- The right-of-way of 2nd Avenue NW from Lincoln Street NW, east to its dead end.

- Lot 2-1-1-A, Railroad Addition, Parcel Number 19-31-326-001 – City of Cascade.
- Lot 2-1-A, Railroad Addition, Parcel Number 19-31-326-002 - City of Cascade.
- The right-of-way of Pierce Street SW from 2nd Avenue SW to 5<sup>th</sup> Avenue SW.
- The right-of-way of 3rd Avenue SW from Pierce Street SW to Pierce Street SW.
- Lot 8, SW, Parcel Number 19-31-360-005 - City of Cascade.
- Lot 1-2-6, SW, Parcel Number 19-31-385-004 – Rich & Deb Kerper.
- Lot 1, Takes 1st Addition, Parcel Number 19-31-385-005 – Donald & Aileen Takes.
- Lots 33 & 34, East Cascade, Parcel Number 19-31-359-001 - City of Cascade.
- Lots 35 & 36, East Cascade, Parcel Number 19-31-359-002 - City of Cascade.
- Vacated Alley North of Lot 36, East Cascade, Parcel Number 19-31- 359-003 - City of Cascade.
- Vacated Fleet Street South of Lot 37, East Cascade, Parcel Number 19- 31-359-004 - City of Cascade.
- Lots 37 & 48, East Cascade, Parcel Number 19-31-359-005 - City of Cascade.
- Lot 49, East Cascade, Parcel Number 19-31-359-006 - City of Cascade.
- Lot 1-G, East Cascade, Parcel Number 19-31-304-001 – Dubuque County.
- Part Reclaimed Slough Land, Parcel Number 18-36-426-018 - City of Cascade.
- Lot 2-3, East ½ of the SE, Parcel Number 18-36-426-017 - City of Cascade.
- Lot 2, Reclaimed Slough Land, Parcel Number 18-36-426-016 - City of Cascade.
- Lot 1-1-1, Leibold Place, parcel Number 18-36-426-015 – Western Dubuque County Community School District.
- Lot 2-2, East ½ of the SE, Parcel Number 18-36-427-004 – Sauser Farms, Inc.
- Lot 1-1-4, East ½ of the SE, Parcel Number 18-36-426-011 – Western Dubuque County Community School District.
- Lot 2-2, Leibold Place, Parcel Number 18-35-426-023 - City of Cascade.
- Lot 1-2, Leibold Place, Parcel Number 18-36-426-022 – Pete & Leo (Nick) Sauser.
- Lot 2-1, Leibold Place, Parcel Number 18-36-426-013 – Mark & Barb Otting.
- Lot 2-1-1, Leibold Place, Parcel Number 18-36-426-012 – Dick & Linda Koppes.
- The alley right-of-way between Buchanan Street NW, east to its dead end along north border of Lot 1C, Frank Otting Place.
- Lot 2-1, Frank Otting Place, 19-31-303-011 – City of Cascade.
- Lots 11 & 12, Block 15, West Cascade, 18-36-426-019 – City of Cascade.
- The right-of-way of Buchanan Street NW from 1st Avenue West, north to its dead end.
- Lots 1 & 2, Block 11, West Cascade, Parcel Number 18-36-484-005 Patrick & Betty Lyons.
- East 12' 6" of Lot 2-1-2 SW and the West ½ of Lot 3-2 SW, Parcel Number 19-31-333-002 – Richard Aitchison.
- The right-of-way of 1st Avenue East from Pat Street NE to its dead end at the west border of Lot-D Oak Hill Subdivision.
- Lot A of 1st Avenue East, Parcel Number 19-32-176-008 – Cascade Economic Development Corporation.

## 2009 Amendments

Deletion of the following parcels:

- Lot 47, River Bend Subdivision, City of Cascade, 18-36-276-006, South Storm Water Detention Basin.

- Lot 48, River Bend Subdivision, City of Cascade, 18-36-276-005 Proposed Playground Area.
- Lot 50 River Bend Subdivision, City of Cascade, 18-31-152-003, River Bend Lift Station.
- Lots 1-5, Block 20, West Cascade, City of Cascade, 18-36-431-001, the Old Cascade Country Foods Grocery Store.
- Lot 1A, Frank Otting Place, City of Cascade, 19-31-303-002, Old Herb Green Ford Property.
- Lot 1B, Frank Otting Place, City of Cascade, 19-31-303-003, Old Herb Green Ford Property.
- Lot 1-1 Frank Otting Place, City of Cascade, 13-31-303-010, Old Herb Green Ford Property.
- Lot 10 & Lot 11, East Cascade, City of Cascade 19-31-351-010, Old Great Plains Property.
- Lot 1-7, East Cascade, City of Cascade, 19-31-351-013, Mary Schmidt Property.
- Lot 2, Beck 2<sup>nd</sup> Industrial Park, City of Cascade, 19-32-151-015.

Creating a new district for the following parcel:

- Lot 2, Beck 2<sup>nd</sup> Industrial Park, City of Cascade, 19-32-151-015, Brothers Market.

7-15-5 PROVISIONS FOR DIVISION OF TAXES. The taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each taxing district upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph 2, below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocation taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to included the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal and interest on loans, moneys, advanced to or indebtedness, whether funded, refunded assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance in whole or in part, projects in the Urban Renewal Area, except that the taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and unit the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assess value of the taxable property in such areas shown by the assessment roll referred to in paragraph 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or

for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mention on paragraph 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

7-15-6 EXPERATION DATE. For Urban Renewal Area shall be in effect until January 1, 2015, unless repealed or amended prior to that date by the City Council.

## CHAPTER 15A SPECULATIVE SHELL BUILDINGS-TAX EXEMPTIONS

15A.01 Purpose

15A.02 Definitions

15A.03 Eligibility

15A.04 Application

15A.01 PURPOSE. The purpose of this Chapter is to provide a property tax exemption for shell buildings constructed by community development organizations or for-profit entities for speculative purpose in accordance with 427.1(27) of the Code of Iowa.

15A.02 DEFINITIONS. For use in this Chapter the following terms are defined as follows:

1. Community development organization means a City organization or a multi-community group formed for one or more of the following purposes:

- A. To promote, stimulate, develop and advance the business prosperity and economic welfare of the community, area or region and its citizens.
- B. To encourage and assist the location of new business and industry.
- C. To rehabilitate and assist existing business and industry.
- D. To stimulate and assist in the expansion of business activity.

For purposes of this definition, a community development organization must have at least fifteen (15) members with representation from the government at the level or levels corresponding to the community development organization’s area of operation; a private sector lending institution; a community organization in the area; a business in the area and private citizens in the community.

2. New Construction means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. New construction also

includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction is necessary to implement recognized industry standards for the manufacturing or processing of products and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval by city council.

3. Speculative shell building means a building or structure owned and constructed or reconstructed by a community development organization or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing or warehousing the employer's or user's product line.

15A.03 ELIGIBILITY. The new construction of shell buildings or the portion of the value added to the building being reconstructed or renovated in order to become speculative shell building by the community development organization or for-profit entity is eligible for property tax exemption commencing the assessment year in which the building is first assessed or in which the reconstruction or renovation first adds value. The exemption shall continue until the property is leased or sold or until terminated by ordinance of the council. Eligibility for an exemption as a speculative shell building shall be determined as of February 1 of the assessment year. However, an exception shall not be granted a speculative shell building of a for-profit entity if the building is used by the for-profit entity or a subsidiary or majority owners thereof for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to an exemption under this section for subsequent years.

15A.04 APPLICATION. An application shall be filed with the county assessor with a copy to the city clerk for each project for which an exemption is claimed in accordance with Section 427B.4 of the Code of Iowa.

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 16 PARK REGULATIONS**

7-16-1	Purpose	7-16-6	Keg Beer Prohibited
7-16-2	Motor Vehicles	7-16-7	Littering Prohibited
7-16-3	Camping Prohibited	7-16-8	Glass Bottles Prohibited
7-16-4	Animals	17-16-9	Fires Prohibited
7-16-5	Parks Closed		

7-16-1 **PURPOSE.** The purpose of this chapter is to provide for the regulation of use of municipal parks in the City.

7-16-2 **MOTOR VEHICLES.** The maximum speed limit for all motor vehicles is ten (10) miles per hour in all parks in the City. No motorized vehicles are permitted to drive or park on the grass.

7-16-3 **CAMPING PROHIBITED.** Camping in municipal parks is prohibited at all times.

7-16-4 **ANIMALS.** Horses are prohibited at all times. Household pets are to be kept on leashes at all times while in the park and shall not be permitted to bother or interfere with the use and enjoyment of the parks by other persons.

7-16-5 **PARKS CLOSED.** No person shall enter or remain within any park between the hours of eleven o'clock (11:00) p.m. and daybreak.

7-16-6 **KEG BEER PROHIBITED.** Keg beer is prohibited at all times.

7-16-7 **LITTERING PROHIBITED.** It is unlawful for any person to place or cause to be placed any garbage, trash or litter of any matter in the parks except in containers or receptacles specifically marked for such garbage, trash or litter.

7-16-8 **GLASS BOTTLES PROHIBITED.** Glass beverage containers are prohibited.

7-16-9 **FIRES AND CAMP FIRES PROHIBITED.** It is unlawful for any person to knowingly cause a fire to start in any container or trash receptacle specifically used for garbage, trash, or litter disposal. No person shall bring into the park any contained fire pit for the use of burning or causing to burn any materials for use as a camp fire. It is unlawful for any person to create a fire pit in the park for use as a camp fire or burning any material. Park grills shall only be utilized for preparing to cook food for consumption and only by using charcoal and shall not be used to burn or cause to be burned any materials for use as a camp fire.



