

# **CITY OF SHAMBAUGH CODE OF ORDINANCES**

## **2013**

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**TITLE I GENERAL PROVISIONS**  
**CHAPTER 1 GENERAL PROVISIONS**

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

1. "City" means the City of Shambaugh , Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
2. "Clerk" means Clerk-Treasurer.
3. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
4. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
5. "County" means the County of Page, Iowa;
6. "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.
7. "Fiscal Year" means July 1 to June 30.

8. "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;
9. "May" confers a power;
10. "Month" means a calendar month;
11. "Must" states a requirement;
12. "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. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
14. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
15. "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;
16. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
17. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
18. "Preceding" and "following" mean next before and next after, respectively;
19. "Property" includes real and personal property
20. "Real property" includes any interest in land;
21. "Shall" imposes a duty;
22. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
23. "State" means the State of Iowa;

24. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
25. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
26. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
27. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
28. "Year" means a calendar year;
29. All words and phrases shall be construed and understood according to the common and approved usage of the language; 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;
30. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.
31. "Building" means any man-made structure permanently affixed to the ground.

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 Shambaugh Municipal Code of 2013 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly ~~classification~~ 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.

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.

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 Shambaugh, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

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 Shambaugh, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ...” The new section shall then be set out in full as desired.

## **TITLE I GENERAL PROVISIONS**

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

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

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

# TITLE I GENERAL PROVISIONS

## CHAPTER 3 PENALTY

1-3-1 General Penalty

1-3-3 Scheduled Fines

1-3-2 Civil Penalty -Municipal Infraction

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))

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 Shambaugh, 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 Shambaugh, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.
- b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Shambaugh.
- c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

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

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

## Schedule of Civil Penalties

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

Repeat Offense: Not more than one thousand dollars (\$1,000.00)

- b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
- c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

### 3. Civil Citations

- a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.
- b. The citation may be served by personal service, substituted 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 filed with 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:
  - i. The name and address of the defendant.
  - ii. The name or description of the infraction attested to by the officer issuing the citation.
  - iii. The location and time of the infraction.
  - iv. The amount of civil penalty to be assessed or the alternative relief sought, or both.
- e. The manner, location, and time in which the penalty may be paid.
- f. The time and place of court appearance.
- g. The penalty for failure to appear in court.

h. The legal description of the affected property, if applicable.

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

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

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Shambaugh, 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 Shambaugh, 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 | 2-2-7  | Blanket Position Bond                       |
| 2-2-2 | Appointment of Officers         | 2-2-8  | Bonds Filed                                 |
| 2-2-3 | Terms of Appointive Officers    | 2-2-9  | Boards and Commissions                      |
| 2-2-4 | Vacancies in Offices            | 2-2-10 | Removal of Appointed Officers and Employees |
| 2-2-5 | Bonds Required                  | 2-2-11 | Gifts                                       |
| 2-2-6 | Surety                          |        |   |

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: Clerk, Attorney, and Maintenance Manager .

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore.

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

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

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

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

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

(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.

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.

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.

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

2-2-10 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES. Except as otherwise provided by law, all persons appointed to City office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed with the Clerk, and a copy shall be sent by certified mail to the person removed. Upon request filed with the Clerk within thirty (30) days of the date of mailing the copy, the removed person shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days of the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 375.15)

2-2-11 GIFTS. Except as otherwise indicated in Chapter 68 B of the Iowa Code, a public official, public employee, or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift from a "restricted donor" as defined in Chapter 68B and a "restricted donor" shall not, directly or indirectly, individually or jointly with one or

more other “restricted donors”, offer to make a gift to a public official, public employee, or candidate.

## 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 Maintenance Manager
2-3-3	Deposits of Municipal Funds	2-3-10	Reserved
2-3-4	Transfer of Records and Property To Successor	2-3-11	Reserved
2-3-5	Powers and Duties of the Mayor	2-3-12	Conflict of Interest
2-3-6	Powers and Duties of the Clerk	2-3-13	Resignations
2-3-7	Reserved		

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:

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

(Code of Iowa, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.  
(Code of Iowa, Sec. 372.14(1) and (3))
3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote to not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.
4. 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)
5. The Mayor shall represent the City in all negotiations properly 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.
6. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.
7. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.
8. 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.
9. 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))

10. 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.
11. 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.
12. 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.
13. 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 peace officer.

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

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund. 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.

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

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

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

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

6. 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)

7. 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)

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

9. 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)

10. 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))

11. 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.

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

13. 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)
14. The Clerk shall maintain all City records as required by law.  
(Code of Iowa, Sec. 372.13(3) and (5))
15. 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))
16. 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.
17. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of the Clerk's duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.  
(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)
18. 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))
19. 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))
20. 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))
21. 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))

22. 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)

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

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

24. 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))

25. 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))

26. 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))

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

(Code of Iowa, Sec. 384.16)

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

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

29. 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))

30. 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))

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

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

32. 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))

33. The Clerk shall keep a register of all bonds outstanding and record all payments of principal and interest.

34. The Clerk shall administer oaths of office to any City officer who is required to give an oath.

35. The Clerk shall perform such other duties as specified by Council resolution or ordinance.

36. The Clerk shall keep all permanent cemetery records and issue cemetery deeds

2-3-7 RESERVED.

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 MAINTENANCE MANAGER. The duties of the Maintenance Manager shall be as follows:

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

1. The Manager shall be responsible for the management, operation and maintenance of all municipal utilities.
2. The Manager shall keep records of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.
3. The Manager shall make a report every month in writing to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report.

4. The Manager shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.
5. The Manager shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

2-3-10 RESERVED.

2-3-11 RESERVED.

2-3-12 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work material or the profits there of or services to be furnished or performed for his City, unless expressly permitted by law. A contract entered into in violation of this section is void.

2-3-13 RESIGNATIONS. Resignations shall be made, in writing, by all Council Members and officers to the City Clerk or Mayor so that resignation may be recorded and considered.

**TITLE II POLICY AND ADMINISTRATION  
CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

2-4-1 Council Member

2-4-3 Mayor Pro Tem

2-4-2 Mayor

2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$30.00 for each meeting of the City Council.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$720.00 to be paid in equal monthly installments.

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

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

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

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

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1 Budget Adoption	2-5-8 Budget Officer
2-5-2 Budget Amendment	2-5-9 Expenditures
2-5-3 Budget Protest	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 Administrative Transfers	2-5-14 Immediate Payment Authorized

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:  
(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:
  - a. Expenditures for each program.
  - b. Income from sources other than property taxation.
  - c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

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

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



3. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.
4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.
5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-5-2 BUDGET AMENDMENT. The City budget 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 that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-5-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of

the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

2-5-4 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 ADMINISTRATIVE TRANSFERS. The City Clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval.

The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

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

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) 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.

(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.

2-5-14 IMMEDIATE PAYMENT AUTHORIZED. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due which if not paid promptly would result in the loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include, but is not limited to, payment of utility bills, contractual obligations, payroll, and bond principal and interest.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 6 POSTING

2-6-1 Purpose

2-6-3 Removal Unlawful

2-6-2 Listing; Length of Notice

2-6-1 PURPOSE. The City of Shambaugh, Iowa has a population of two hundred (200) or less as shown by the last preceding certified federal census, and Ordinances and amendments and publications of notices of elections, hearings and other official actions may be made by posting in three public places designated by the City Council.

(Code of Iowa, Sec. 362.3(2))

2-6-2 LISTING; LENGTH OF NOTICE. The three (3) public places where Ordinances, amendments and public notices of elections, hearings and other official actions are to be displayed are:

1. Mayor's Office
2. City Hall
3. Clerk's Office

The City Clerk is hereby directed to post all Ordinances, amendments and City Council actions promptly after passage and to post all such matters not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, or as otherwise required by State law.

(Code of Iowa, Sec. 380.7)

2-6-3 REMOVAL UNLAWFUL. It shall be unlawful for any person other than a city official to remove any public notice. Any unlawful removal of a public notice or posting shall not affect the validity of the Ordinance or action taken.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 7 CITY ELECTIONS

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

2-7-1 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.

2-7-2 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)

2-7-3 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)

2-7-4 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)

2-7-5 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.
5. Such petition when so verified shall be known as a nomination paper.  
(Code of Iowa, Sec. 45.5)

2-7-6 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.

2-7-7 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.

2-7-8 PRIMARY AND RUNOFF ABOLISHED. The Council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for City offices.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 8 LAW ENFORCEMENT**

2-8-1 Establishment of Services

2-8-2 Copy of Agreement

2-8-1. ESTABLISHMENT OF SERVICES BY 28E AGREEMENT. The City of Shambaugh has established law enforcement services to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City by participating in a 28E Agreement with the Page County Sheriff's Department.

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

2-8-2 COPY OF AGREEMENT. A copy of the 28E Agreement is on file with the Secretary of State, State of Iowa and has been recorded by the Page County Recorder, Page County, Iowa. In addition, a copy of the agreement is on file in the City Clerk's office.



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 9 CITY COUNCIL

2-9-1 Powers and Duties

2-9-3 Meetings

2-9-2 Exercise of Power

2-9-1 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))

2-9-2 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)

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))

2-9-3 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 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the first Monday of each month at 7:00 o'clock (7:00) p.m. in the Community 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 City Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.

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

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

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

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

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

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-4	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. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

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

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

5. Dumping of snow. It shall be unlawful for any person to throw, push, or place of cause to be thrown, pushed or placed any ice or snow from private property, sidewalks, or driveway onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition except where in the cleaning of large commercial drives, it is absolutely necessary to moved the snow onto the snow streets temporarily, such accumulation shall be removed promptly by the property owner or his agent, and only after first making arrangements for such prompt removal at the owner's costs of the accumulation within a reasonably short time.

6. Washing Vehicle on Streets Prohibited. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his own vehicle or equipment when it is lawfully parked on the street.
7. Use of Streets for Business Purposes. It shall be unlawful to park, store, or place any new or used cars, machinery, or any other goods, wares and merchandise of any kind upon any street for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.
8. Traveling on Barricaded Street Prohibited. It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the fire department.

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

1. Expectoring. 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 likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)
3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety.
4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.
5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar

persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

- a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.
- b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator. No permit shall be granted unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:  
Personal injury - \$250,000.00 per person  
Property Damage - \$50,000.00  
Total Exposure - \$1,000,000.00
- 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.

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.

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

(Code of Iowa, Sec. 727.3)

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

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

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

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)

### 3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

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

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

4. 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)

5. Injury to gravestones or property in cemetery. No person shall willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of 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)

6. 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)

7. 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)

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

(Code of Iowa, Sec. 716.1)

9. 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)

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

(Code of Iowa, Sec. 716.1)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

- f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of 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. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

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

- m. Trees infected with Dutch Elm disease.

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

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

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

(Code of Iowa, Sec. 716.1)

- p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.  
(Code of Iowa, Sec. 657.2)

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.  
(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.  
(Code of Iowa, Sec. 657.3)

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

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.  
(Code of Iowa, Sec. 364.12(3)(b))
2. The removal, repair, or dismantling of dangerous buildings or structures.  
(Code of Iowa, Sec. 364.12(3)(c))
3. The numbering of buildings.  
(Code of Iowa, Sec. 364.12(3)(d))
4. The connection to public drainage systems from abutting property when necessary for public health or safety.  
(Code of Iowa, Sec. 364.12(3)(e))
5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.  
(Code of Iowa, Sec. 364.12(3)(f))
6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.  
(Code of Iowa, Sec. 364.12(3)(g))
7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets, except as provided in Section 3-2-3(1).

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section

3, the Mayor or officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice.

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

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

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

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.
5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor.

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

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

The hearing will be before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

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

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

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an

accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County 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 building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

- 3-3-1 Short Title
- 3-3-2 Definitions
- 3-3-3 Traffic Accident Reports
- 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

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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.
6. "Residential districts" means all areas of the City not included in business districts.

(Code of Iowa, Sec. 321.1)

7. "Street Cleaning" shall mean the washing, sweeping, and loading of dirt and debris from the street by mechanical or manual means.

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.

3-3-4 **POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS.** The peace officer shall prepare annually a traffic report which shall be filed with the Mayor and Council. 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.** A peace officer, and in the absence of a peace officer, any officer of the fire department when at the scene of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of any emergency Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with

traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

### 3-3-6 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW.

Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

1. 321.32 Registration card carried and exhibited - exception
2. 321.90 Disposal of abandoned motor vehicles
3. 321.98 Operation without registration.
4. 321.174 Operators licensed – operation of commercial motor vehicles
5. 321.180 Violations of instruction permit limitations.
6. 321.193 Violation of conditions of restricted license.
7. 321.194 Violation of conditions of minor’s school license.
8. 321.216 Unlawful use of license.
9. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
10. 321.219 Permitting unauthorized minor to drive.
11. 321.220 Permitting unauthorized person to drive.
12. 321.221 Employing unlicensed chauffeur
13. 321.222 Renting motor vehicle to another
14. 321.223 Driver’s license inspection for motor vehicle rental

15. 321.224 Record kept
16. 321.229 Failure to comply with lawful order of peace officer.
17. 321.230 Public officers not exempt
18. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
19. 321.232 Radar jamming devices.
20. 321.233 Road workers exempted
21. 321.234 Failure to observe seating requirements.
22. 321.236 (Parking) Violation of local ordinance (not a state offense).
23. 321.256 Failure to obey traffic control device.
24. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
25. 321.260 Unlawful possession of, or interference with traffic control device.
26. 321.264 Striking unattended vehicle.
27. 321.265 Striking fixtures upon a highway.
28. 321.266 Reporting accidents
29. 321.267 Supplemental reports
30. 321.268 Driver unable to report
31. 321.275 Motorcycle and motorized bicycles violations.
32. 321.277 Reckless driving.
33. 321.278 Drag racing prohibited.
34. 321.285 Speed restrictions.

35. 321.286 Truck speed limits (highway).
36. 321.287 Bus speed limits (highway).
37. 321.288 Failure to maintain control.
38. 321.294 Failure to maintain minimum speed when directed by officer.
39. 321.295 Excessive speed on bridge.
40. 321.297 Driving on wrong side of two-way highway.
41. 321.298 Failure to yield half of roadway upon meeting vehicle.
42. 321.299 Passing on wrong side.
43. 321.302 Overtaking and passing.
44. 321.303 Unsafe passing.
45. 321.304 Unlawful passing.
46. 321.305 Violating one-way traffic designation.
47. 321.306 Improper use of lanes.
48. 321.307 Following too closely.
49. 321.308 Following too closely (trucks and towing vehicles).
50. 321.309 Failure to use approved drawbar.
51. 321.310 Unlawful towing of four-wheeled trailer.
52. 321.311 Turning from improper lane.
53. 321.312 Making U-turn on curve or hill.
54. 321.313 Unsafe starting of a stopped vehicle.
55. 321.314 Unsafe turn or failure to give signal.
56. 321.315 Failure to give continuous turn signal.

57. 321.316 Failure to signal stop or rapid deceleration.
58. 321.317 Signal light requirements; see equipment violation.
59. 321.318 Incorrect hand signal.
60. 321.319 Failure to yield to vehicle on right.
61. 321.320 Failure to yield upon left turn.
62. 321.321 Failure to yield upon entering through highway.
63. 321.322 Failure to obey stop or yield sign.
64. 321.323 Unsafe backing on highway.
65. 321.324 Failure to yield to emergency vehicle.
66. 321.325 Pedestrian disobeying traffic control signal.
67. 321.326 Pedestrian walking on wrong side of highway.
68. 321.327 Pedestrian right-of-way.
69. 321.328 Pedestrian failing to use crosswalk.
70. 321.329 Vehicle failing to yield to pedestrian.
71. 321.330 Use of crosswalks
72. 321.331 Soliciting ride from within roadway.
73. 321.332 Unlawful use of white cane.
74. 321.333 Failure to yield to blind person.
75. 321.334 Penalties
76. 321.340 Driving in or through safety zone.
77. 321.341 Failure to properly stop at railroad crossing.
78. 321.342 Failure to obey stop sign at railroad crossing.

79. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
80. 321.344 Unlawful movement of construction equipment across railroad track.
81. 321.353 Unsafe entry into sidewalk or roadway.
82. 321.354 Stopping on traveled part of highway.
83. 321.355 Disabled vehicle.
84. 321.356 Officers authorized to remove
85. 321.357 Removed from bridge.
86. 321.358 Stopping, standing, or parking where prohibited.
87. 321.359 Moving other vehicle.
88. 321.360 Prohibited parking in front of certain buildings.
89. 321.361 Parking too far from curb/angular parking.
90. 321.362 Parking without stopping engine and setting brake.
91. 321.363 Driving with obstructed view or control.
92. 321.364 Preventing contamination of food by hazardous material.
93. 321.365 Coasting upon downgrade.
94. 321.366 Improper use of median, curb, or controlled access facility.
95. 321.367 Failure to maintain distance fire-fighting vehicle.
96. 321.368 Crossing unprotected fire hose.
97. 321.369 Putting debris on highway/roadway.
98. 321.370 Removing injurious material.
99. 321.371 Clearing up wrecks.

100. 321.372 School bus provisions.
101. 321.377 Excessive speed of school bus.
102. 321.381 Driving or towing unsafe vehicle.
103. 321.382 Operating underpowered vehicle.
104. 321.383 Failure to display reflective device on slow-moving vehicles.
105. 321.384 Failure to use headlamps when required.
106. 321.385 Insufficient number of headlamps.
107. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
108. 321.387 Improper rear lamp.
109. 321.388 Improper registration plate lamp.
110. 321.389 Improper rear reflector.
111. 321.390 Reflector requirements.
112. 321.391 Improper type of reflector.
113. 321.392 Improper clearance lighting on truck or trailer.
114. 321.393 Lighting device color and mounting.
115. 321.394 No lamp or flag on rear-projecting load.
116. 321.395 Parking on certain roadways without parking lights.
117. 321.396 Exception to lighting equipment
118. 321.397 Improper light on bicycle.
119. 321.398 Improper light on other vehicle.
120. 321.402 Improper use of spotlight.



121. 321.403 Improper use of auxiliary driving lights.
122. 321.404 Improper brake light.
123. 321.405 Self-illumination
124. 321.408 Back-up lamps.
125. 321.409 Improperly adjusted headlamps.
126. 321.415 Failure to dim.
127. 321.418 Single-beam road-lighting equipment
128. 321.419 Improper headlighting when night driving.
129. 321.420 Excessive number of driving lights.
130. 321.421 Special restrictions on lamps
131. 321.422 Lights of improper color-front or rear.
132. 321.423 Special light/signal provision.
133. 321.430 Defective braking equipment.
134. 321.431 Brake performance ability.
135. 321.432 Defective audible warning device.
136. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle
137. 321.434 Use of siren or whistle on bicycle.
138. 321.436 Defective or unauthorized muffler system.
139. 321.437 Mirrors.
140. 321.438 Windshields.
141. 321.439 Defective windshield wiper.

- 142. 321.440 Defective tires.
- 143. 321.441 Unauthorized use of metal tire or track.
- 144. 321.442 Unauthorized use of metal projection on wheels.
- 145. 321.443 Exceptions – Miscellaneous equipment
- 146. 321.444 Failure to use safety glass.
- 147. 321.445 Failure to maintain or use safety belts.
- 148. 321.446 Failure to secure child.
- 149. 321.449 Special regulations.
- 150. 321.450 Hazardous materials.
- 151. 321.452 Scope and effect
- 152. 321.453 Exceptions – size, weight, and load
- 153. 321.454 Width and length violations.
- 154. 321.455 Excessive side projection of load – passenger vehicle.
- 155. 321.456 Excessive height.
- 156. 321.457 Excessive length.
- 157. 321.458 Excessive projection from front of vehicle.
- 158. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 159. 321.460 Spilling loads on highways.
- 160. 321.461 Excessive tow-bar length.
- 161. 321.462 Failure to use required towing equipment.
- 162. 321.463 Maximum gross weight.

163. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

## TRAFFIC CONTROL DEVICES

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

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

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 CITY COUNCIL TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The City Council is hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.
2. To 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 Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

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

## 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: None.

(Code of Iowa, Sec. 321.290)

## TURNING MOVEMENTS

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

(Code of Iowa, Sec. 321.311)

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

3-3-13 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 City Council shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

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

None.

3-3-17 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Mayor 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 City Council may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

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

#### SPECIAL STOPS REQUIRED

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

(Code of Iowa, Sec. 321.345 and 321.350)

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 City Council 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 City Council is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required. Every driver of a vehicle shall stop before entering an intersection as required:

1. 4<sup>th</sup> Street and 3<sup>rd</sup> Street stops for Main Street.
2. Main Street stops for Heresy Street
3. Four way stop at 4<sup>th</sup> and Wall Street
4. A portable stop sign may be used at each church in town, if requested by the church

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.

## PEDESTRIANS' RIGHTS AND DUTIES

3-3-23 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

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)

## 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 City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by 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.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.

**3-3-30 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 City Council 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 City Council, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

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

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

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.



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

## STOPPING, STANDING OR PARKING

3-3-32 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 City Council 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. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the City of Shambaugh 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 City Clerk 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)

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 RESERVED. Trucks licensed for five (5) tons or more shall not be parked at the following locations on the streets named:

Residential Areas. No such vehicles shall be parked or left unattended on any residential streets.

3-3-36 NO PARKING DURING STREET CLEANING. To facilitate street cleaning, special and temporary no parking areas will be established at the direction of the City by placement of temporary, "NO PARKING, STREET CLEANING" signs along the street. These signs shall be

placed at least two (2) hours before work is to begin and shall not be enforced for one hour after they are placed.

## MISCELLANEOUS DRIVING RULES

3-3-37 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-38 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.

3-3-39 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of:

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

3-3-40 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.

3-3-41 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.

3-3-42 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.

3-3-43 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:  
None

3-3-44 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow, or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

3-3-45 RESERVED.

3-3-46 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.

3-3-47 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.
2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

3-3-48 TAMPERING WITH A VEHICLE. Any person who individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicles without the consent of the owner is guilty of a misdemeanor punishable as provided in Section 321.482 of the Iowa Code.

3-3-49 CARELESS DRIVING. No person shall drive any vehicle in such a manner as to indicated careless driving, meaning simple negligence and does not impute willfulness or intent.

3-3-50 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.

3-3-51 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cut out, bypass or similar device.

3-3-52 QUIET ZONES. Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

## BICYCLE REGULATIONS

3-3-53 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)

3-3-54 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.

3-3-55 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.

3-3-56 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.

3-3-57 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-58 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.

3-3-59 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.

3-3-60 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.

3-3-61 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.

3-3-62 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

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

## SNOWMOBILES

### 3-3-63 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.

3-3-64 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.

3-3-65 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.

7. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

3-3-66 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.
2. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.
3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-67 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.

3-3-68 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.

3-3-69 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

#### OFF-ROAD VEHICLES

3-3-70 DEFINITIONS. For use in this Chapter the following terms are defined:

1. "All-terrain vehicle" (ATV) means a motor vehicle designed to travel on three or more wheels and designed primarily for off- road recreational use. "All-terrain vehicle" includes off road-utility vehicles as defined in section 321I.1. but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(Code of Iowa, Section 321.1)

Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to Chapter 321. An operator of an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in this Chapter, but is exempt from the safety instruction and certification program requirements of Sections 321I.25 and 321I.26.

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321, but which contains design features that enable operation over natural terrain.
3. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a steering wheel for control.

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

3-3-71 Operation of off road vehicles. The operation of ATV or off road vehicles shall comply with the following restrictions:

1. Streets. Only on such streets as may be designated by the City Council in accordance with Code of Iowa 321.234A  
(Code of Iowa, Sec. 321.I)
2. Prohibited Operation. Shall not be operated on the sidewalks, railroad right of way, parks, or other city land.
3. Time of Operation. Shall only be operated between sunrise and sunset.
4. Compliance with State Code. All Operations shall comply with Iowa Code Chapter 321I

3-3-72 Reserved

3-3-73 Reserved

3-3-74 ACCIDENT REPORTS. Whenever an ATV, off-road motorcycle, or off-road utility vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.



## GOLF CARTS

3-3-75 DEFINITIONS. For use in this ordinance “golf cart” is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-76 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver’s license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

## PENALTIES AND PROCEDURE

3-3-77 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.

3-3-78 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.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 4 RESERVED**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 5 FIRE PROTECTION**

3-5-1 Establishment of Services

3-5-2 Copy of Agreement

3-5-1. ESTABLISHMENT OF SERVICES BY 28E AGREEMENT. The City of Shambaugh has established fire protection services to prevent and extinguish fires and to protect lives and property against fires by participating in a 28E Agreement with the Nodaway Harlan Fire District.

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

2-8-2 COPY OF AGREEMENT. A copy of the 28E Agreement is on file with the Secretary of State, State of Iowa and has been recorded by the Page County Recorder, Page County, Iowa. In addition, a copy of the agreement is on file in the City Clerk's office.

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

(Code of Iowa, Sec. 364.1)

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

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

The City of Shambaugh 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 1:00 a.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
4. Guardian means:
  - a. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under 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 Shambaugh, 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 Shambaugh, 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 law enforcement.

## 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 Vehicular Traffic
3-7-3	Permits	3-7-9	Display of Permit
3-7-4	Requirements	3-7-10	Permit Not Transferable
3-7-5	Hours of Solicitation	3-7-11	Revocation of Permit
3-7-6	Consumer Protection Law		

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.

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. This permit shall extend no longer than sixty days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

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

3-7-4 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 9:00 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 post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the

forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

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 this 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 violated this Ordinance or has otherwise conducted business in an unlawful manner.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 CIGARETTE LICENSE

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

3-8-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

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

(Code of Iowa, Sec. 453A.1(2))

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

(Code of Iowa, Sec. 453A.1(19))

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

(Code of Iowa, Sec. 453A.1(17))

3-8-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Shambaugh, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-8-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

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

3-8-4 EXPIRATION. Permits expire on June 30 of each year.

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

3-8-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

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

3-8-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

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

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:
  - a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
  - b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.
  - c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
  - d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
  - e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.
  - f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the

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

- g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.
2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.
3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

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

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

3-8-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

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

## **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<br>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 VEHICLES

3-10-1 Purpose	3-10-7 Auction or Disposal of Abandoned Vehicles
3-10-2 Definitions	3-10-8 Junk Vehicles Declared a Nuisance
3-10-3 Removal of Abandoned Vehicles	3-10-9 Notice to Abate
3-10-4 Notification of Owners and Lienholders	3-10-10 Abatement by Municipality
3-10-5 Impoundment Fees and Bonds	3-10-11 Collection of Cost of Abatement
3-10-6 Hearing Procedures	3-10-12 Exceptions
	3-10-13 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 the elimination of the open storage of abandoned and junk motor vehicles 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 twenty-four 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 twenty-four hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
  - d. A vehicle that has been legally impounded by order of the Mayor and/or Council and has not been reclaimed for a period of ten days; or
  - e. Any vehicle parked on the street determined by law enforcement to create a hazard to other vehicular traffic.

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



2. "Private property" means any real property within the City which is not public property as defined in this section.
3. "Public property" means any public right-of-way open for the purposes of vehicular travel.
4. A "junk vehicle" means any 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.

### 3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The peace officer may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The peace officer may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.
3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police or Mayor if the Chief of Police is unavailable, shall maintain a record of the

vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

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

### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Mayor and/or City Council, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:
  - a. Describe the year, make, model, and serial number of the vehicle.
  - b. Describe the personal property found in the vehicle.
  - c. Describe the location of the facility where the vehicle is being held.
  - d. Inform the persons receiving notice:
    - (1) of their right to reclaim the vehicle and personal property within ~~twenty-one (21)~~ **ten** days after the effective date of the notice;
    - (2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
    - (3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;
    - (4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.
  - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of

Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

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

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.  
(Code of Iowa, Sec. 321.89(3)(a))

2. The owner, lienholders or any person receiving notice may, by written request received by the Mayor and/or Council prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.  
(Code of Iowa, Sec. 321.89(3)(c))

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

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

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

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

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

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

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

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

### 3-10-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Chief of Police or Mayor if the Chief of Police

is unavailable, evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.
3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:
  - a. the fees required by Section 3-10-5(1)
  - b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

### 3-10-6 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. The City of Shambaugh shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Shambaugh, Iowa, constitutes a threat to the health and

safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

### 3-10-9 NOTICE TO ABATE.

1. Whenever the Mayor shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Mayor shall notify, by certified mail with five days' return receipt, the following persons:
  - a. the owner of the property.
  - b. the occupant of the property.
2. The notice to abate shall:
  - a. describe, to the extent possible, the year, make, model, and color of the vehicle.
  - b. describe the location of the vehicle.
  - c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
  - d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

3-10-10 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 EXCEPTIONS.

This chapter shall not apply to the following:

1. A vehicle in an enclosed building.
2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 11 DRUG PARAPHERNALIA**

3-11-1 Definitions

3-11-2 Exemption

3-11-3 Prohibition

3-11-1 DEFINITIONS. As used in this Section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

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

(Code of Iowa, Sec. 124.414)

3-11-2 EXEMPTION. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

(Code of Iowa. Sec. 124.414)

3-11-3 PROHIBITION. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 12 DANGEROUS BUILDINGS

3-12-1 Enforcement Officer	3-12-5 Conduct of Oral Hearing
3-12-2 General Definition	3-12-6 Posting Signs
3-12-3 Unsafe Building or Structure	3-12-7 Right to Demolish
3-12-4 Written Notice to Owner	3-12-8 Assessment of Costs

3-12-1 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this Chapter.

3-12-2 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 or otherwise, are, for the purposes of this Chapter, unsafe buildings or structures. All unsafe buildings or structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure as set forth in this Chapter.

(Iowa Code §657A.1 & 364.12(3)(a))

3-12-3 UNSAFE BUILDING OR STRUCTURE. An "unsafe Building or Structure" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever a 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 was constructed or being utilized.



3. Inadequate Maintenance of a Building or Structure. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, neglect 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, neglect or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned Buildings or Structures. 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.

3-12-4 WRITTEN NOTICE TO OWNER OF BUILDING OR STRUCTURE. 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 or structure as defined in this Chapter, the enforcement officer shall give to the owner of the building or structure written notice listing the specific defects. This Written Notice may require the owner, person or persons in charge of the building or structure, within 48 hours or such reasonable time as the circumstances may require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof. All such work shall be completed within 90 days from the date of the Written Notice, unless otherwise agreed to by the enforcement officer. If necessary, such Written Notice shall also require the building, structure or portion thereof to be vacated immediately and not reoccupied until the required repairs and improvements are completed and inspected and approved by the enforcement officer.

(Iowa Code §356.12(3(h))

1. Written Notice Served. Written Notice shall be served by sending the notice by Certified Mail to the record owner of the Building or Structure, according to Iowa Code §354.123(3)(h), if the owner is found within the City limits. If the owner is not found within the City limits, service may be made upon the owner by registered or certified mail. The designation period within which the owner, person or persons in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such Written Notice.
2. Oral Hearing. All Written Notice shall also advise the owner that he or she may request an oral hearing before the City Council on the Written Notice by filing a written request for oral hearing within the time provided in the Written Notice.

3-12-5 CONDUCT OF ORAL HEARING. If requested by the owner, the City Council shall schedule and conduct an oral hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of the hearing.
2. Building or Structure Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance should not be abated.
3. Determination. The City Council shall make and record the findings of fact from the hearing and may then issue an order as the City Council deems proper and appropriate.

3-12-6 POSTING SIGNS. The enforcement officer shall post at each entrance to such building, a notice to read as follows: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SHAMBAUGH ". The 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. No person shall enter the building or structure except for the purpose of making required repairs or demolishing the building or structure.

3-12-7 RIGHT TO DEMOLISH BUILDING OR STRUCTURE. If the owner of the building or structure fails, neglects or refuses to comply with the Written Notice to repair, rehabilitate, demolish, remove the building or structure or the portion thereof, the City Council may order the owner of the building or structure prosecuted for violating the provisions of this Chapter and may order the enforcement officer to proceed with the work specified in the Written Notice. A statement of the cost of such work shall be transmitted to the City Council.

(Iowa Code §364.12 (3)(h))

3-12-8 ASSEMENT OF COSTS. Costs incurred by the City under Section 3-12-7 of this Chapter shall be paid out of the City treasury. Such costs shall be charged to the owner of the building or structure involved and levied as a special assessment against the land on which the building or structure is located. The special assessment shall be certified to the County Treasurer for collection in a manner as provided for other taxes.

(Iowa Code §364.12(3)(h))

## TITLE III COMMUNITY PROTECTION

### CHAPTER 13 SEXUALLY ORIENTED BUSINESSES

3-13-1	Purpose	Judicial Review: Right to
3-13-2	Findings	Provisional License Pending
3-13-3	Jurisdiction	Judicial Review
3-13-4	Definitions	3-13-15 Transfer of License
3-13-5	Classifications	3-13-16 Hours of Operation
3-13-6	License Required: Temporary License Upon Application	3-13-17 Loitering and Exterior Lighting and Monitoring Requirements
3-13-7	Issuance of License	3-13-18 Violations and Penalties
3-13-8	Fees	3-13-19 Applicability to Existing Businesses
3-13-9	Periodic Inspections	3-13-20 Regulations Concerning Live Public Nudity on Premises
3-13-10	Expiration of License	3-13-21 Employee License Violation
3-13-11	Cause for Suspension	Imputed to Business Licensee
3-13-12	Cause for Revocation	3-13-22 Business Location Restriction
3-13-13	Nature of Revocation	
3-13-14	Right to Hearing Prior to Denial, Suspension, Revocation: Prompt	

3-13-1 PURPOSE. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented business within the City. The provisions of this ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

3-13-2 FINDINGS. Based on evidence of adverse secondary effects of adult uses presented to the City Council and on findings, interpretations, and narrowing constructions incorporated in both state and federal court cases, the City Council finds that the regulatory provisions of this Chapter are within its constitutional power to enact, are designed to serve the City's substantial interest in preventing many of the negative secondary effects associated with sexually oriented adult uses, is narrowly tailored to that end, and provides reasonable alternative avenues of communication for sexually explicit messages within the City.

1. Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments.

2. Employees of sexually oriented businesses, as defined in this Chapter, often engage in certain types of illicit sexual behavior.
3. Sexual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Communities have suffered adverse aesthetic impacts caused by sexually oriented businesses, including sexually graphic and unsanitary litter in and around Adult Bookstores and other sexually oriented adult uses.
5. Persons often frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex in or near the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs.
6. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and Shigella infections, chlamydial, myoplasmal and ureaplasmal infections, trichomoniasis and chancroid.
7. Men and women of all races are most likely to be infected by sexual contact.
8. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view “adult” oriented films.
9. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent duty on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City.
10. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.
11. Requiring licensees of sexually oriented business to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
12. The fact that an applicant for a license has been convicted of a sexually related crime leads

to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.

13. The general health, safety, and welfare of the citizens of the City will be promoted by the enactment of this ordinance.

3-13-3 JURISDICTION. The provisions of this Chapter shall apply to all of the incorporated territory of the City of Cumberland, Iowa.

3-13-4 DEFINITIONS. For purposes of this Chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. **ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing “specified sexual activities” or “specified anatomical areas”.
2. **ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE:** A commercial establishment which has significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:
  - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas”;
  - b. Instruments, devices, or paraphernalia designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

The term “Adult Bookstore, Adult Novelty Store, or Adult Video Store” shall also include a commercial establishment, which regularly maintains one or more “Adult Arcade.”

3. **ADULT CABARET:** A nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

4. ADULT MOTEL: A motel, hotel, or similar commercial establishment which:
  - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off premises advertising, including but no limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
  - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - c. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.
5. ADULT MOTION PICTURE THEATRE: A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.
6. CITY COUNCIL: The City Council of the City of Cumberland, Iowa.
7. CITY: The City of Cumberland, Iowa.
8. CITY ATTORNEY: The City Attorney of the City of Cumberland, Iowa.
9. CITY CLERK: The City Clerk of the City of Cumberland, Iowa.
10. CONTROLLING INTEREST: The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.
11. DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON: The dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas”, the films so

described are those whose dominant or principal character and theme are the exhibition or description “specified sexual activities” or “specified anatomical areas”.

12. **EMPLOY, EMPLOYEE, AND EMPLOYMENT:** Any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
13. **ESTABLISH OR ESTABLISHMENT:** The term or terms shall mean and include any of the following:
  - a. The opening or commencement of any sexually oriented business as a new business;
  - b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
  - c. The addition of any sexually oriented business to any other existing sexually oriented business.
14. **LICENSEE:** A person, in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, it shall mean the person in whose name the sexually oriented business employee license has been issued.
15. **NUDITY OR A STATE OF NUDITY:** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
16. **OPERATE OR CAUSE TO OPERATE:** The term or terms shall mean to cause to function or to put or keep in a state of doing business.
17. **OPERATOR:** Any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.
18. **PERSON:** Any individual, proprietorship, partnership, corporation, association or other legal entity.
19. **REGULARLY FEATURES OR REGULARLY SHOWS:** A consistent or substantial

course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

20. **SEMI-NUDE OR STATE OF SEMI-NUDITY:** A state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.

21. **SEMI-NUDE MODEL STUDIO:** Any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

It is a defense to prosecution for any violation of this ordinance that a person appearing semi-nude or in a state of semi-nudity did so in a modeling class operated:

- a. By a college, junior college, or university supported entirely or partly by taxation;
- b. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- c. In a structure:
  - i. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
  - ii. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

22. **SEXUALLY ORIENTED ENTERTAINMENT ACTIVITY:** The sale, rental, or exhibition, for any form of consideration, of books, films, videocassettes, magazines, periodicals or live performances which are characterized by an emphasis on the exposure or display of specific sexual activity.

23. **SPECIFIED ANATOMICAL AREAS:** Human genitals, anus, cleft of the buttocks, or the nipple or areola of the female breast.

24. **SPECIFIED CRIMINAL ACTIVITY:** Any of the following offenses:

- a. Iowa Code § 728.2 (dissemination and exhibition of obscene materials to minors);



Iowa Code § 728.3 (admitting minors to premises where obscene material is exhibited); Iowa Code § 728.4 (rental or sale of hard-core pornography); Iowa Code § 728.5 (public indecent exposure in certain establishments); Iowa Code § 728.12 (sexual exploitation of a minor); Iowa Code § 709.2-4 (sexual abuse); Iowa Code § 709.8 (lascivious acts with a child); Iowa Code § 709.9 (indecent exposure); Iowa Code § 709.12 (indecent contact with a child); Iowa Code § 709.14 (lascivious conduct with a minor); Iowa Code § 709C.1 (criminal transmission of human immunodeficiency virus); Iowa Code § 711.4 (extortion); Iowa Code § 725.1-4 (prostitution, pimping, pandering, leasing premises for prostitution); criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses, if the acts had been committed in Iowa; for which:

- b. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
- c. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
- d. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
- e. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

25. SPECIFIED SEXUAL ACTIVITY: The term means any of the following:

- a. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
- b. Excretory functions as a part of or in connection with any of the activities described in section 1 immediately preceding this statement.

26. TRANSFER OF OWNERSHIP OR CONTROL: This term or terms shall mean any of the following:

- a. The sale, lease, or sublease of the business;
- b. The transfer of securities which constitute a controlling interest in the business,

whether by sale, exchange, or similar means; or

- c. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

27. VIDEO ROOM: The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

3-13-5 CLASSIFICATIONS. Sexually oriented businesses shall be classified as follows:

1. Adult bookstores, adult novelty stores, adult video stores;
2. Adult cabarets;
3. Adult motels;
4. Adult motion picture theatres;
5. Semi-nude model studios.

3-13-6 LICENSE REQUIRED: TEMPORARY LICENSE UPON APPLICATION.

1. It is unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.
2. It is unlawful for any person to be an employee, as defined in this Chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license.
3. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Clerk a completed application made on a form provided by the City Clerk. The application shall be signed by the applicant and notarized. An application shall be considered complete when it contains the information required in paragraphs a through f as follows:
  - a. The applicant's full name and any other names used in the preceding five (5) years.
  - b. Current business address or another mailing address of the applicant.
  - c. Written proof of age, in the form of a copy of a birth certificate and a picture identification document issued by a governmental agency.

- d. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
  - e. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
  - f. A statement of whether the applicant has been convicted or has pled guilty or nolo contendere (no contest) to a specified criminal activity as defined in this Chapter, and if so, the specified criminal activity involved, including the date, place and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
4. The information provided pursuant to paragraphs a through f of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Clerk within ten (10) working days of a change of circumstances that would render the information originally submitted as false or incomplete.
  5. An application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Section 3-13-20 of this Chapter shall submit a diagram meeting the requirements of that section.
  6. If a person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 3-13-7 of this Chapter and each applicant shall be considered a licensee, if a license is granted.
  7. The information provided by an applicant in connection with an application for a license under this Chapter shall be maintained by the City Clerk on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

### 3-13-7 ISSUANCE OF LICENSE.

1. Upon the filing of a completed application under Section 3-13-6(3) for a sexually oriented business license, the City Clerk shall immediately issue a Temporary License to the applicant. The Temporary License shall expire upon the final decision of the City Council to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the City Clerk shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The City Clerk shall approve the issuance of a license unless:
  - a. An applicant is less than eighteen (18) years of age.
  - b. An applicant has failed to provide information as required by Section 3-13-6 of this Chapter for issuance of a license or has falsely answered a question or request for information on the application form.
  - c. The license application fee has not been paid.
  - d. An applicant has committed a violation of Section 3-13-9(1), Section 3-13-12(2), Section 3-13-20(1), (2), and (3) of this Chapter within the previous year.
  - e. The sexually oriented business premises are not in compliance with the interior configuration requirements of this Chapter.
  - f. An applicant has been convicted of a specified criminal activity, as defined by this Chapter.
2. The license, if granted, shall state on its face:
  - a. The name of the person or persons to whom it is granted;
  - b. The number of the license issued to the licensee(s);
  - c. The expiration date; and
  - d. The address of the sexually oriented business, if the license is for a sexually oriented business.

The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business, so that it may be easily read at any time.

A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for

inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this Chapter.

### 3-13-8 FEES.

1. **FILING FEE REQUIRED.** A filing fee, in accordance with the established fee schedule, shall be charged for each application for initial license and annual renewals to assist in deferring the costs of the administrative review. The applicant shall be held responsible for submitting the required fees upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.
2. **FEE SCHEDULE.** The fee schedule shall be established by the City Council.
3. **FEE REFUND.** Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

### 3-13-9 PERIODIC INSPECTIONS.

1. Sexually oriented businesses and sexually oriented business employees shall permit agents of the City to inspect, from time to time, on an occasional basis, the portions of the sexually oriented business premises where the patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Chapter, during those times when the sexually oriented business is occupied by patrons or is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension, and/or revocation. This section shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises pursuant to this Chapter, but not to authorize a harassing or excessive pattern of inspection.
2. The provisions of this section do not apply to areas of an Adult Motel which are currently being rented by a customer for use as a permanent or temporary habitation.

### 3-13-10 EXPIRATION OF LICENSE.

Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 3-13-6 and Section 3-13-8 of this Chapter.

1. Application for renewal should be made at least ninety (90) days before the expiration date. When made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

### 3-13-11 CAUSE FOR SUSPENSION.

1. The City shall issue a letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days, if the sexually oriented business licensee has violated this Chapter or has knowingly allowed an employee to violate this Chapter.
2. The City shall issue a letter of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days, if the employee has violated this Chapter.

### 3-13-12 CAUSE FOR REVOCATION.

1. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, if the respective licensee commits two (2) or more violations within a twelve (12) month period.
2. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if:
  - a. The licensee knowingly gave false information in the application for a sexually oriented business license or sexually oriented business employee license;
  - b. The licensee knowingly engaged in possession, use, or sale of controlled substances on the premises;
  - c. The licensee knowingly engaged in prostitution on the premises;
  - d. The licensee knowingly operated the sexually oriented business during a period of time when the license was suspended;
  - e. The licensee knowingly engaged in any specified sexual activity to occur in or on the licensed premises.
3. A business licensee shall be liable for the acts of an employee only pursuant to the standard established in Section 3-13-21 of this Chapter.

3-13-13 NATURE OF REVOCATION. When, after the notice and hearing procedure described in Section 3-13-14 of this Chapter, the City Clerk revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions or Section 3-13-14(2) of this Chapter are met, a Provisional License will be granted pursuant to that section. If, subsequent to revocation, the City Clerk finds that the basis for the revocation pursuant to Section 3-13-12(2)(a) of this Chapter has been corrected or abated, the applicant shall be granted a license, if at least ninety (90) days have elapsed since the date the

revocation became effective. If the license was revoked under subsections 3-13-12(2)(b), (c), (d), or (e) of this Chapter, an applicant may not be granted another license until at least two (2) years have elapsed.

**3-13-14 RIGHT TO HEARING PRIOR TO DENIAL, SUSPENSION, REVOCATION; PROMPT JUDICIAL REVIEW; RIGHT TO PROVISIONAL LICENSE PENDING JUDICIAL REVIEW.**

1. If facts exist that warrant the denial, suspension, or revocation of a license under this Chapter, the City Clerk shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the license, including the grounds thereof, by personal delivery, or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the City Clerk for the respondent. Within ten (10) working days of the receipt of such notice, the respondent may submit a written request to the City Clerk for a hearing before the City Council to refute the grounds alleged by the City Clerk for denial, suspension, or revocation of the license.

Within five (5) days of the receipt of respondent's written response, the City Clerk shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. Within twenty (20) working days of the receipt of respondent's written response, the City Council shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City's witnesses. The City Clerk shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision within five (5) days after the hearing. If the decision is to deny, suspend or revoke the license, it shall state the reasons for such action, and the denial, suspension, or revocation shall become final for purposes of appeal immediately, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to grant the license, the City Clerk shall immediately issue a license to the respondent.

If the respondent does not request a hearing within ten (10) business days of receiving the City Clerk's notice of intent to deny, suspend, or revoke the license, the license shall be deemed denied, suspended, or revoked, as applicable.

2. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to challenge or appeal such action or seek a declaration of rights concerning such action and/or concerning this Chapter, upon factual grounds or constitutional grounds or both, to a court of law within thirty (30) days after issuance of the City Council's written decision. Upon the filing of any

court action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this Chapter or the City Clerk's denial, suspension, or revocation, the City Clerk shall immediately issue the aggrieved party a Provisional License. The City shall supply the court with any documents, reports, or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The Provisional License shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this Chapter or the City's denial, suspension, or revocation of a license under this Chapter.

If, in the alternative, the aggrieved party does not wish to bear the burden of initiating a court action, he or she may, within thirty (30) days after the City Council's written decision is issued, elect to require the City to file a declaratory action in a court of competent jurisdiction, seeking a declaration that the denial, suspension, or revocation is valid and that the ordinance is constitutionally sound. Such an election must be made in writing and be delivered to the City Attorney's Office within thirty (30) days of issuance of the City Council's written decision. Upon the delivery of the election notice to the City Attorney's Office, the City shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the validity of this Chapter and the City's denial, suspension, or revocation decision.

This section shall be liberally construed to permit the uninterrupted operation of the sexually oriented business or the uninterrupted employment of the sexually oriented business employee during the course of any court action challenging this Chapter or an adverse licensing decision under this Chapter until the court of law rules upon all the aggrieved party's factual and or constitutional claims.

3-13-15 TRANSFER OF LICENSE. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

3-13-16 HOURS OF OPERATION. No sexually oriented business, except for an Adult Motel, shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a sexually oriented business which holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

3-13-17 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

1. It shall be the duty of the operator of a sexually oriented business to:



- a. Post conspicuous signs stating that no loitering is permitted on such property;
  - b. Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every two (2) hours or inspecting such property by use of video camera and monitors; and
  - c. Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering.
2. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station or at a cash register where an employer is regularly present.
  3. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

3-13-18 VIOLATIONS AND PENALTIES. The penalty for violating the provision of this Chapter shall be as set forth in Title 1, Chapter 3 of the City of Cumberland Code of Ordinances.

3-13-19 APPLICABILITY TO EXISTING BUSINESSES. The provision of this Chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such business or activities were established or commenced before, on, or after the effective date of this Chapter. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a De Facto Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this Chapter. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this Chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premise to conform to this Chapter.

3-13-20 REGULATIONS CONCERNING LIVE PUBLIC NUDITY ON PREMISES.

1. It shall be a violation of this Chapter for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Iowa Code § 728.5. It shall be a violation for any person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
2. It shall be a violation of this Chapter for an employee to knowingly and intentionally appear semi-nude in a sexually oriented business unless the employee, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
3. It shall be a violation of this Chapter for an employee, while semi-nude in a sexually

oriented business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.

4. It shall be a violation of this Chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally touch a customer or the clothing of a customer or for a customer to knowingly and intentionally touch an employee or the clothing of an employee, while said employee is semi-nude in a sexually oriented business.

A sign, in a form to be prescribed by the City Council and summarizing the provisions of Paragraphs 1 through 4 of this Section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry into the inside of the building.

#### 3-13-21 EMPLOYEE LICENSE VIOLATION IMPUTED TO BUSINESS LICENSEE.

Notwithstanding anything to the contrary, for the purposes of this Chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this Chapter that the person to whom the violative act is imputed was powerless to prevent the act.

#### 3-13-22 BUSINESS LOCATION RESTRICTION.

No sexually oriented business shall be located within one thousand (1,000) feet of the place of business of a child care provider registered with the State of Iowa, or any city or school owned playground or park.

## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-7	Keeping a Vicious Animal
4-1-2	Immunization	4-1-8	Kennel Dogs
4-1-3	At Large Prohibited	4-1-9	Bothersome Animals
4-1-4	Animal Nuisances	4-1-10	Grazing Animals
4-1-5	Impounding	4-1-11	Feedlots, Hog Pens, and Confinements
4-1-6	Dangerous Animals		

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 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. "Animal" shall mean all living creatures not human
5. "Grazing Animal" shall mean all living creatures, not human, that get sustenance and food mainly from the land on which they reside.
6. "Feed Lot Confinements" shall mean an areas where more than two (2) animals are confined, making existence on land alone impossible and requiring additional feed for maintenance of said animals.
7. "Hog Pen" shall mean any enclosed area containing one or more hogs.
8. "Small Pasture" shall mean an area that is smaller than, but not equal to, one acre in size.

4-1-2 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. 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)

4-1-3 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)

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

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.
3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Code of Iowa, Sec. 657.1)

4-1-5 IMPOUNDING.

1. Any dog found at large in violation of Sections 4-1-3 and 4-1-4 of this chapter may be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.
2. Owners of dogs shall be notified within two (2) days that upon payment of actual costs, including transportation and other related costs, plus cost of food and care in a reasonable amount, the dog will be returned. If the impounded 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. 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)

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

(Code of Iowa, Sec 351.39)

4-1-6 DANGEROUS ANIMALS.

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

- a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.
  - b. The following are animals which shall be deemed to be dangerous animals per se:
    - (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
    - (2) Wolves, coyotes, and foxes;
    - (3) Badgers, wolverines, weasels, skunks and mink;
    - (4) Raccoons;
    - (5) Bears;
    - (6) Monkeys, chimpanzees, and apes;
    - (7) Alligators and crocodiles;
    - (8) Scorpions; gila monsters;
    - (9) Snakes that are venomous or constrictors;
    - (10) Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
    - (11) Any cross breed of such animals which have similar characteristics of the animals specified above.
  - c. Any animals declared to be dangerous by the City Council.
3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:
- a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the

public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-7 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is 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 reasonably be known to the owner thereof.

4-1-8 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.

4-1-9 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the City such bothersome animals as barking dogs, bees, cattle, horses, swine, and sheep which tend to disrupt the peace and good order of the community.

4-1-10 GRAZING ANIMALS. Grazing animals only are permitted in the City. A total of two (2) animals of any kind are permitted for a small pasture. No more than three (3) animals are allowed in the City limits on any size property.

4-1-11 FEEDLOTS, HOG PENS, AND CONFINEMENTS. There will be no feedlots, hog pens, and confinements allowed within the City limits.

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

**CHAPTER 1 RESERVED**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Definitions	6-1-5	Reserved
6-1-2	Reserved	6-1-6	Building Requirements
6-1-3	Reserved	6-1-7	Reserved
6-1-4	Reserved		

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 RESERVED.



6-1-3 RESERVED.

6-1-4 RESERVED.

6-1-5 RESERVED.

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent 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. (The effective date of this Ordinance is/was \_\_\_\_\_).\*

(Code of Iowa, Sec. 435.26)

6-1-7 RESERVED.

**\*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 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 Works of the City of Shambaugh 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))

#### 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. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.
3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant

for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 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 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(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.
2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$100.00 dollars for a residential or commercial building sewer permit and \$100.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

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

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.
6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.
  - a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas

tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

- b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

- (1) Pipe and Fittings - ASTM C-700 "Standard Specification 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."

- d. 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.

- e. 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.
  - f. 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.
  - g. 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. Roof leaders, surface drains, or ground water drains shall not be connected to the 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. A "Y", "T", or "Cleanout" fitting shall be installed near the building foundation to provide for cleanout purposes.



10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.
13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.
14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:
  - a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
  - b. Non-payment of bills.
  - c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
  - c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
  - d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
  - a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
  - b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
  - c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
  - d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
  - e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
  - f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, -in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
  - g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
  - h. Any waters or wastes having a pH in excess of 9.5.

- i. Materials which exert or cause:
    - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
    - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
    - (4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.
  - j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- a. Reject the wastes,
  - b. Require pretreatment to an acceptable condition for discharge to the public sewers.
  - c. Require control over the quantities and rates of discharge, and/or
  - d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except

that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.
8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.
9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).
10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-2-6 PROTECTION FROM DAMAGE.

1. No unauthorized person shall 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. 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

6-3-1	Enforcement	6-3-14	Interruption of Service
6-3-2	Adoption of State Plumbing Code	6-3-15	Claims Against the City
6-3-3	License Required	6-3-16	Check Valve
6-3-4	Mandatory Connections	6-3-17	Special Terms
6-3-5	Permit	6-3-18	Damage to City Property
6-3-6	Fee for Permit	6-3-19	Selling Water
6-3-7	Water Supply Control	6-3-20	Easements and Right of Way
6-3-8	Making the Connection	6-3-21	Extensions
6-3-9	Excavations	6-3-22	Refusing Service
6-3-10	Inspection and Approval	6-3-23	Complaints
6-3-11	Completion by the City	6-3-24	Notice and Discontinuance
6-3-12	Meter Accuracy and Test	6-3-25	Billing and Notices
6-3-13	Meter Installation and Maintenance	6-3-26	Cancellations and Discontinuances

#### **6-3-1 APPLICATION PROCESS**

- 1. The customer must make written application for water service at the Shambaugh City Clerk's office. Said application including service received thereunder is unassignable by the customer**
- 2. All taps and connections to the mains of the utility shall be made by and/or under the direction and supervision of waterworks personnel and constructed in accordance with the provisions of this ordinance.**
- 3. The utility shall install and maintain at its expense that portion of the service from the main to the lot or easement line, including the necessary tap, fittings, and shut-off valve; and the customer shall install and maintain at its expense that portion of the service from said lot or easement line to his premises, including a stop and waste cock at the end of the house side of his service. The minimum earth cover of the customer's service shall be five (5) feet. The utility shall determine the size and kind of service,**
- 4. Application may be canceled and/or water service discontinued by the utility for any violation of any rule, regulation or condition of service and especially for any of the following reasons:**
  - a. Misrepresentation in the application as to the property or fixtures to be supplied or use to be made water,**

- b. Failure to report to the utility addition to the property or fixtures to the supplies or additional use to be made of water.
  - c. Resale or giving away of water,
  - d. Waste or misuse of water due to improper or imperfect pipes, and/or fixtures, or failure to keep same in suitable state of repair.
  - e. Connection, cross-connection, or permitting same, of any separate water supply to premises which receive water from the utility.
  - f. Non-payment of bills.
5. There shall be two (2) classes of permit applications; one for residential service, and the second for commercial and industrial service. In either case, the owner or his agent shall make application. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of \_\_\_\_\_ (\$ ) for a residential service connection and \_\_\_\_\_dollars (\$ ) for a commercial or industrial service connection shall be paid to the utility, at the time the permit application is filed.

~~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 USE OF PUBLIC WATER REQUIRED.**

- 1. It shall be unlawful for any person to connect any private or semi private water source or well in any manner on public or private property within the city or in any area under the jurisdiction of said city to the public water system.
- 2. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner any polluted water or wastewater through cross-connecting another source of water to the public water system.
- 3. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city, or in any area



under the jurisdiction of said city, and abutting on any street, alley, or right-of-way in which there is located a public water system of the city, is hereby required at his expense to install suitable facilities therein, and to connect such facilities directly with the public water system in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided that said public water is abutting any street, alley, or right-of-way adjacent to the property being served by the public water system.

### 6-3-3 CUSTOMER SERVICE PROCESS.

1. The City of Shambaugh reserves the right to request a nominal sum be placed on deposit with the utility for purpose of establishing or maintaining any customer's credit. See Section 6-5-
2. All meters shall be installed, maintained and renewed by and at the expense of the City of Shambaugh, and the City of Shambaugh reserves the right to determine the size and type of meter used.
3. Upon the written request of any customer, the meter serving said customer shall be tested by the utility. Such test will be made without charge to the customer if the meter has not been tested within twelve (12) month preceding the requested test; otherwise a charge of dollars (\$) will be made and then only if the test indicates meter accuracy within the limits of 2%
4. When a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purpose will be based upon an average of the prior six (6) months consumption, and the conditions of water service prevailing during the period in which the meter failed to register.
5. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being dollars (\$); and the amount to be determined by the City of Shambaugh depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one the same meter.

Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

- 6. The City of Shambaugh shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.**

#### **6-3-4 PROTECTION FROM DAMAGE.**

**The utility shall in no event be held responsible for claim made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the supply of water 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 of service which in the opinion of the City of Shambaugh may be deemed necessary.**

**Customers having boilers and/or pressure vessels receiving a supply of water from the utility must have a check valve on the water supply line and a vacuum valve on the streamline to prevent collapse in case the water supply from the utility is discontinued or interrupted for any reason, with or without notice.**

**The premises receiving a supply of water and all service lines, meter and fixtures, including any and all fixtures within the said premises shall at all reasonable hours be subject to inspection by duly authorized employees of the City of Shambaugh.**

**Special terms and conditions may be made where water is used by the utility or community for public purposes such as fire extinguishment, public parks, etc.**

**No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit. Before a permit may be issued, the person applying for such permit shall have executed unto the municipality and deposited with the Clerk a corporate surety in the minimum sum of**

**6-3-2 ADOPTION OF STATE PLUMBING CODE.** The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

**6-3-3 LICENSE REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the

suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

6-3-4 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 PERMIT.

1. **Customer must make written application for water service at the Shambaugh City Clerk's office and said application including service rendered is unassignable by the customer.**
2. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit application from the Clerk. Before the application may be issued, the person apply for such permit application shall have executed unto the City, and deposited with the Clerk a corporate surety in the sum of one thousand dollars (\$1,000) condition that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules, and regulations established under any ordinance of the City pertaining to plumbing, waterworks, or appurtenances . This bond shall state that the person will indemnify and save harmless City and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing, waterworks, or appurtenances as prescribed in this article.
3. Such bond shall remain in force and must be executed for a period of one(1) 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.
4. There shall be two (2) classes of permit applications: one for residential service, and the second for commercial and industrial service. In either case, the owner or his agent shall make supplication on a special form furnished by the Clerk. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of two dollars (\$2.00) for a residential service connection and two dollars (\$2.00) for a commercial or industrial service connection shall be paid to the Clerk at the time the permit application is filed.
5. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the

water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-6 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay a fee to the (Superintendent) (City Clerk) to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee shall be established by Resolution. (See footnote at end of chapter)

6-3-7 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.

6-3-8 MAKING THE CONNECTION.

1. 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))

2. The municipality shall install at the property owners expense that portion of the service from the main to the lot or easement line, including the necessary tap, fittings, and shut-off valve; and the customer shall install and maintain at his expense that portion of the service from said lot or easement line to his premises, including a stop and waste cock at the end of the house side of his service. The minimum earth cover of the customer's service shall be five feet (5'). The company shall determine the size and type of service to be installed.

3. If the water line is on the same side of the street as the new installation, the charge for connection shall be \$750.00. If the water line must cross the street for the new installation, the connection charge shall be \$1,000.
4. If the service line from the water main to the new installation crosses the street, the line shall be backfilled with coarse sand, fine gravel or similar material and solidly tamped or packed first to prevent the settling of the street and then covered with material likeness on the street.

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 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. Upon the written request of any customer, the meter serving said customer shall be tested by the City. Such test shall be made

without charge to the customers if the meter has not been tested within twelve (12) months preceding the test; otherwise a charge of two dollars (\$2.00) will be made and then only if the test indicates meter accuracy within the limits of two percent (2%).

**6-3-13 RESPONSIBILITY FOR WATER LINES AND METERS.** All meters shall be installed, maintained, and renewed by and at the expense of the City, and the City reserves the right to determine the size and type of meter used. **The City shall install and maintain at its expense that portion of the service from the main to the lot or easement line, including the necessary tap, fittings and shut-off valve; and the customer shall install and maintain at its expense that portion of the service from said lot or easement line to his premises, including a stop and waste cock at the end of the house side of his service. The minimum earth cover of the customer's service shall be five (5) feet. The utility shall determine the size and king of service to be installed.**

6-3-14 INTERRUPTION OF SERVICE. The City shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur will endeavor to re-establish service with the shortest possible delay. Whenever the system is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

6-3-15 CLAIMS AGAINST THE CITY. The City in no event shall be held responsible for claim made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the water supply 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 of service which in the opinion of the City may be deemed necessary.

6-3-16 CHECK VALVE. Customers having boilers and/or pressure vessels receiving a supply of water from the City must have a check valve on the water supply line and the vacuum valve on the steamline to prevent collapse in case the water supply from the City is discontinued or interrupted for any reason, with or without notice.

6-3-17 SPECIAL TERMS. Special terms and conditions may be made where water is used by the City or community for public purpose such as fire extinguishment, public parks, etc.

6-3-18 DAMAGE TO CITY PROPERTY. If any loss or damage to the property of the City or any accident or injury to persons or property is caused by results from the negligence or wrongful act of the customer, member of his household, his agent, or employee, the cost of the necessary repairs or replacements shall be paid by the customers to the City and any liability otherwise resulting shall be that of the customer.

6-3-19 CUSTOMERS SELLING WATER. Water furnished by the City may be used for domestic consumption by the customer, members of his household, and employees only. The customer shall not sell or give the water to any other person.

6-3-20 EASEMENTS AND RIGHTS-OF-WAY. Each customer shall grant or convey, or shall cause to be granted or conveyed to the City a permanent easement and right-of-way across any property owned or controlled by the customer wherever said easement or right-of-way is necessary for the municipal water facilities and lines, so as to be able to furnish service to the customer.

6-3-21 EXTENSIONS. The City will construct extensions to its water lines to points within its service area but the City shall not be required to make such installations unless the customer pays to the City the entire cost of the installation.

1. All line extensions shall be evidenced by a contract signed by the City and the person advancing funds for said extension, but each contract shall be null and void unless approved by the Farmers Home Administration and other governing bodies.
2. If refund of the advance is to be made, the following method shall apply: 20% of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five years, provided that the aggregate payments do not exceed the total amount deposited.
3. No refund shall be made for any revenue received from any lines leading up to or beyond the particular line extension covered by the contract.
4. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title, or interest therein.

**6-3-22 WRITTEN APPLICATION FOR SERVICE. Customer must make written application for water service at the Shambaugh City Clerk's office. Said application including service received thereunder is unassignable by the customer.**

6-3-22 REFUSING SERVICE. The City may refuse service to persons, not presently customers, when in the opinion of the City the capacity of the facilities will not permit such service.

6-3-23 COMPLAINTS. Complaints may be made to the operator of the system and may be appealed to the City Council within (10) days.

6-3-24 NOTICE FOR DISCONTINUANCE. Any customer desiring to discontinue the water service to his premises for any reason, must give notice of discontinuance in writing at the business office of the waterworks system, otherwise the customer shall remain liable for all water used and services rendered by the City until said notice is received by the City.

6-3-25 BILLING AND NOTICES. Bills and notices relating to the conduct of the business of the City will be mailed to the customer at the address listed on the application, unless a change of address has been filed in writing at the business office of the City; and the City shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused for non-ayment of a bill or from any performance required in said notice.

6-3-26 CANCELLATIONS AND DISCONTINUANCES. Application may be canceled and/or water service discontinued by the City for any violation of any rule, regulation, or condition of service, and particularly for any of the following reasons:

1. Misrepresentation in the application as to the property or fixtures to be supplied or use to be made of water.
2. Failure to report to the City addition to the property or fixtures to the supplies or additional use to be made of water.
3. Resale or giving away of water.
4. Waste or misuse of water due to improper or imperfect service pipes, and/or fixtures, or failure to keep same in suitable state of repair.
5. Tampering with meter, meter seal, service, or valves, or permitting such tampering by others.
6. Connection, cross-connection, or permitting same, of any separate water supply to premises which receive water from the City.
7. Non-payment of bills.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 UTILITIES – WATER CONSERVATION

6-4-1	Water Shortages	6-4-9	Premium Rate for Imprudent Consumption
6-4-2	Conditions	6-4-10	Adjustment of Premium Rate Charges
6-4-3	Water Watch	6-4-11	Penalties
6-4-4	Water Warning	6-4-12	Municipal Infraction
6-4-5	Water Emergency	6-4-13	Reduction in Flow of Water to any Person
6-4-6	Base Allocation		
6-4-7	Water Appeal Board		
6-4-8	Appeal and Adjustment of the Base Allocation		

6-4-1 WATER SHORTAGES. From time to time, the City's water supply may become significantly constrained so that customary and usual demands cannot be met while still maintaining adequate flow in the Nodaway River. Under these conditions, the City Council may find, and declare by resolution, a public Water Watch, Water Warning, or Water Emergency, during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction in water consumption until, by resolution, the City Council finds and declares the constraint conditions to be ended.

#### 6-4-2 CONDITIONS.

1. Water Watch. A Water Watch may be declared when a water shortage poses a potential threat to the ability of the water or wastewater system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a water watch include: decrease in average daily flow of the Nodaway River to below 15 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.
2. Water Warning. A Water Warning may be declared when a water shortage poses a serious threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Warning include: decrease in average daily flow of the Nodaway River to below 8 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.
3. Water Emergency. A Water Emergency may be declared when a water shortage poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a water emergency include: decrease

in average daily flow of the Nodaway River to below 5 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.

6-4-3 WATER WATCH. Under a water watch, all customers of the water utility are encouraged to limit or curtail all nonessential uses of water in order to conserve water resources during the time of shortage or equipment failure. Customers may be encouraged to comply with the following voluntary standards:

1. No watering of lawns, shrubs, or gardens between the hours of 8:00 a.m. and 8:00 p.m.
2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pool or pond.
3. No water should be used to wash streets, parking lots, driveways, sidewalks, or building exteriors.
4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery, and interior spaces.

6-4-4 WATER WARNING. Under a Water Warning, no person shall use potable processed water of the municipal water service in any manner contrary to the following:

1. Outdoor watering or irrigation of lawns is prohibited.
2. Outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. daily.
3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than 4 years old, and new seeding or sod is permitted once per week with an application not to exceed one inch.
4. Car washing is prohibited except in commercial establishments that provide that service.
5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pool or pond.
6. No water shall be used to wash streets, parking lots, driveways, sidewalks, or building exteriors.
7. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery, and interior spaces.
8. Use of water-consuming comfort air conditioning equipment which consumes in excess of 5 percent of the water circulating in such equipment is prohibited.
9. Tankload water sales may be curtailed or eliminated.

Water reclaimed or recycled after some primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from other sources than the City water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

6-4-5 WATER EMERGENCY. Under a Water Emergency, Water Warning use restrictions will be in effect and, in addition, each customer will be afforded a monthly allocation of water.

6-4-6 BASE ALLOCATION. The base allocation of water for residential use shall be 3,000 gallons per household per billing period. For commercial, industrial, or institutional use, the base allocation shall be established by resolution as a percentage of the average water used during the previous winter (November through April).

6-4-7 WATER APPEAL BOARD. A Water Appeal Board shall be appointed during any Water Warning or Water Emergency. The Water Appeal Board shall consist of the Mayor, the Superintendent of the water system, and three representatives of the community who shall be appointed by the Mayor with the approval of the City Council. The Water Appeal Board shall hear appeals of any action taken pursuant to a Water Warning or Water Emergency; except that, if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Iowa Code Section 364.22.

6-4-8 APPEAL AND ADJUSTMENT OF THE BASE ALLOCATION. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than thirty (30) days.
2. For commercial, industrial, institutional, or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer, such as usage, production, service, and occupancy data provided by the customer.

6-4-9 PREMIUM RATE FOR IMPRUDENT CONSUMPTION. In addition to the water rates duly enacted by the City Council, all persons shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation.

6-4-10 ADJUSTMENT OF PREMIUM RATE CHARGES. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Water Appeal Board. The Water Appeal Board may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustment may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for overconsumption due to human carelessness.

2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
3. The adjustment shall be granted only for the billing period prior to the correction of the failure.
4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be 40 percent of the actual bill which shall include the premium rate charges and sales tax.

6-4-11 PENALTIES. The following penalties shall apply for violations of Water Warning use restrictions imposed under this chapter.

1. First Violation. For a first violation, the utility shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.
2. Second Violation. For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill.
3. Subsequent Violations. For any subsequent violations within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill and, in addition, the utility shall interrupt water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of Water Warning or Water Emergency use restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal Board. The Water Appeal Board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

6-4-12 MUNICIPAL INFRACTION. A second or subsequent violation of the Water Warning or Water Emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

6-4-13 REDUCTION IN FLOW OF WATER TO ANY PERSON. The Superintendent is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this ordinance during a Water Warning or Water Emergency.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES - REFUSE COLLECTION

6-5-1	Definitions	6-5-9	Volume Based System
6-5-2	Duty to Provide Cans	6-5-10	Burning of Refuse
6-5-3	Administration	6-5-11	Littering Prohibited
6-5-4	Storage	6-5-12	Open Dumping Prohibited
6-5-5	Collections	6-5-13	Toxic and Hazardous Waste
6-5-6	Collection Service	6-5-14	Refuse Other Than Garbage
6-5-7	Collection Vehicles	6-5-15	Sanitary Landfill
6-5-8	Loading	6-5-16	Prohibited Practices

6-5-1 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-five (35) gallons.
5. "Volume-Based Garbage System" shall mean a system with an ever-increasing charge based upon number of containers utilized or upon actual weight of garbage generated.

6-5-2 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.

Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel.

6-5-3 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))

6-5-4 STORAGE. All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided.

6-5-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require, 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.

6-5-6 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors.

6-5-7 COLLECTION VEHICLES. Vehicles or containers used for the collection of transportation of garbage and similar putrescible waste or refuse containing such materials shall be leakproof, durable, and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

6-5-8 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be located and moved in such a manner that the containers will not fall, leak or spill, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

6-5-9 VOLUME BASED SYSTEM OF GARBAGE COLLECTION

1. Any person or entity engaged in the collection and hauling of garbage and refuse from a residential unit within the City of Shambaugh shall charge based upon the volume of garbage and refuse generated. These volume-based charges may be made through the number of containers or bins utilized or based upon actual weight collected.
2. Any hauler collecting with the City will develop and implement a collection program that assesses and additional fee for waste over 100 gallons per house hold per week. Specifically, each household will be allowed no more than three (3) thirty-three (33) gallon trash bags or three (3) thirty-three gallon trash cans of solid waste per week, not to exceed one hundred (100) gallons in total per week. Each bag or container must not exceed fifty-five (55) pounds in weight. For any additional waste over the 100 gallons, the household must assess an additional charge of \$1 per bag or can by the hauler. The contracting hauler will not pick up any bags or cans exceeding the 100 gallons per household limit without assessing an additional charge.
3. All waste haulers doing business in the city boundaries shall file with the City Council, in writing, a description of their volume or weight-based system concerning garbage and refuse. The collection system description must detail the base fee per household and the additional charge that the hauler will assess the household for weekly quantities over 100 gallons. Such a volume or weight-based system shall create a financial incentive to recycle and reduce the volume of garbage and refuse generated.
4. A violation of any provision of this section shall constitute a misdemeanor and shall be punishable by a fine of not more than \$100.00 or imprisonment for a period of not more than 30 days.

6-5-10 BURNING OF REFUSE. 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. The following shall be permitted exceptions:

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.
2. Diseased Trees. The open burning of diseased tree; however, when the burning of diseased trees causes a nuisance, appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.
3. Flare Stacks. The open burning or flaring of waste gasses, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.



4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises; however the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.
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.
6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the Executive Director of the State Department of Natural Resources receives notice in writing 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.

6-5-11 LITTERING PROHIBITED. No person shall discard any litter on or in any water or land, except when and where authorized. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

6-5-12 OPEN DUMPING PROHIBITED. No person shall dump or deposit, or permit the open dumping or depositing of any solid waste except rubble at any place other than a sanitary disposal project approved by the Executive Director of the State Department of Natural Resources.

6-5-13 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with explicit instructions obtained from the Executive Director of the State Department of Natural Resources.

6-5-14 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-5-15 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

6-5-16 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. Permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health hazard.

2. Permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
3. Deposit any refuse in any solid waste containers other than his/her own without the written consent of the owner of such containers.
4. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties, whether such equipment or collectors be those of the City or those of any other authorized waste collection service.
5. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
6. Engage in the business of collecting, transporting, processing, or disposing of refuse within the City without a contract with the City.
7. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 UTILITIES - BILLING CHARGES

6-6-1	Utility Defined	6-6-10	Rate of Sewer Rent and Manner of Payment
6-6-2	Districts	6-6-11	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-6-3	Disposition of Fees and Charges	6-6-12	Application for Service
6-6-4	Billing, Penalty	6-6-13	Billings Averaged
6-6-5	Discontinuing Services, Fees	6-6-14	Water for Building or Construction Purposes
6-6-6	Residential Rental Property		
6-6-7	Customer Guarantee Deposits		
6-6-8	Water Rates		
6-6-9	Refuse Collection Rates		

6-6-1 UTILITY DEFINED. For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-6-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Shambaugh, Iowa.

6-6-3 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.

6-6-4 BILLING, PENALTY. Utility bills shall be due on the first of the month following the period for which service is billed. Payment shall be made to the City Clerk. Bills shall become delinquent after the fifteenth of the month in which due and bills paid after said day shall have added a penalty of ten (10) percent of the amount of the bill for utility service. When the fifteenth falls on Sunday, the City Clerk shall accept payment on the next office day without penalty.

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

6-6-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid by the fifteenth of the month in which due, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:
  - a. The City Clerk shall send 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 Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

- b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.
2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$26.00 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.  
(Code of Iowa, Sec. 384.84(2))
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))

6-6-6 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the property lessor gives written notice to the City that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the utility. Upon receipt, the City shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the City shall return the deposit, within ten days, if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

A lien shall not be certified to the County Treasurer for collection unless 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 or property lessor.

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

6-6-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers. Homeowners shall pay a \$25 deposit for water service. Tenants shall pay a \$35 deposit for water and a \$35 deposit for sewer. Such deposit shall be refunded upon such time as the tenant no longer requires water service from the City.

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

6-6-8 WATER RATES. Water shall be furnished at the following monthly rates per property serviced within the City limits:

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

The first 2,000 gal. \$25.00

Each Additional 1,000 Gallon or lesser amount \$2.50 per thousand gallons

The minimum charge shall be \$25.00 per household or business building per billing month. There shall be no minimum charged if the water has been shut off at the property owner's request.

6-6-9 RESERVED

6-6-10 RATE OF SEWER RENT AND MANNER OF PAYMENT. The rate of sewer rent shall be based on water usage as follows:

First 3,000 gallons or less \$20.00

All over 3,000 gallons \$1.00 per 200 gallons water used

The minimum charge shall be \$20.00 per household or business building per billing month. There shall be no minimum charged if the water has been shut off at the property owner's request.

The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

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

6-6-11 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 6-6-10 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 6-6-10.

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

6-6-12 APPLICATION FOR SERVICE. A property owner or his/her agent, hereinafter referred to as customer, must make a written application for water service at the City Clerk's office, and said application including service received thereunder is unassignable by the customer.

6-6-13 BILLINGS AVERAGED. Where a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purposes will be based upon an average of the prior six (6) months consumption, and the conditions of water service prevailing during the period in which the meter failed to register.

6-6-14 WATER FOR BUILDING OR CONSTRUCTION PURPOSES. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being twenty-five dollars (\$25.00); and the amount to be determined by the City based upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter.

Water so supplied shall be discharged through a hose or pipe directly upon material to be wet or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than the applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 7 STREET CUTS AND EXCAVATIONS

- |       |                                |       |                             |
|-------|--------------------------------|-------|-----------------------------|
| 6-7-1 | Excavation Permission Required | 6-7-4 | Safety Measures             |
| 6-7-2 | Application for Permit         | 6-7-5 | Backfilling and Restoration |
| 6-7-3 | Reserved                       | 6-7-6 | Rules and Regulations       |

6-7-1 EXCAVATION PERMISSION REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining permission from the Superintendent of Public Works.

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

6-7-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the Superintendent of Public Works for permission. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-7-3 RESERVED.

6-7-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the City Council the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-7-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Maintenance Manager is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-7-6 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 SIDEWALK REGULATIONS

6-8-1 Purpose	6-8-15 Special Assessments for Construction and Repair
6-8-2 Definitions	6-8-16 Notice of Assessment for Repair or Cleaning Costs
6-8-3 Cleaning Snow, Ice, and Accumulations	6-8-17 Hearing and Assessment
6-8-4 Maintenance Responsibility	6-8-18 Billing and Certifying to County
6-8-5 Liability of Abutting Owner	6-8-19 ADAAG Compliance
6-8-6 Ordering Sidewalk Improvements	6-8-20 Opening & Enclosures
6-8-7 Repairing Defective Sidewalks	6-8-21 Encroaching Steps
6-8-8 Notice of Inability to Repair or Barricade	6-8-22 Awnings
6-8-9 Standard Sidewalk Specifications	6-8-23 Fires on Sidewalk
6-8-10 Permits for Construction or Removal	6-8-24 Fuel on Sidewalk
6-8-11 Failure to Obtain Permit; Remedies	6-8-25 Defacing
6-8-12 Inspection and Approval	6-8-26 Debris on Sidewalk
6-8-13 Barricades and Warning Lights	6-8-27 Merchandise Display
6-8-14 Interference with Sidewalk Improvements	6-8-28 Sales Stands

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 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))

6-8-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-8-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the 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)

**6-8-6 ORDERING SIDEWALK IMPROVEMENTS.** The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

**6-8-7 REPAIRING DEFECTIVE SIDEWALKS.** It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order 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))

**6-8-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE.** It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

**6-8-9 STANDARD SIDEWALK SPECIFICATIONS.** Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the City.
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 six (6) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.
7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.
9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.  
(Code of Iowa, Sec. 216C.9)
11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-8-10 PERMISSON FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain permission from the City Council. The person seeking permission must state that he or she will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The person must also state that the work will be done under the direction and approval of the Maintenance Manager. The person shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. Any permission granted for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold permission for any sidewalk improvements for a sufficient

period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

**6-8-11 FAILURE TO OBTAIN PERMISSION; 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 permission, the Mayor shall serve notice to obtain permission 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 permission is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain permission 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.

**6-8-12 INSPECTION AND APPROVAL.** Upon final completion, the Maintenance Manager 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.

**6-8-13 BARRICADES AND WARNING LIGHTS.** Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

**6-8-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

**6-8-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR.** The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

**6-8-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice 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)

6-8-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-8-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the 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)

6-8-19 ADAAG Compliance. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

6-8-20 OPENING AND ENCLOSURES. It shall be unlawful for a person to:

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

6-8-21 ENCROACHING STEPS. It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.

6-8-22 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material

supported by iron frames or brackets securely fastened to the building, with any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

6-8-23 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.

6-8-24 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.

(Code of Iowa, 716.1)

6-8-25 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint, or writing in any sidewalk.

6-8-26 DEBRIS ON SIDEWALK. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 364.12(12))

6-8-27 MERCHANDISE DISPLAY. It shall be unlawful for a person to place upon or above any sidewalk, any 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.

6-8-28 SALES STANDS. It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining written permit from the council.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 9 RESERVED**



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 RESTRICTED RESIDENCE DISTRICT

6-10-1 Purpose	6-10-7 Buildings Requiring Special Permits to Locate Within Restricted Districts
6-10-2 Definitions	6-10-8 Special Permits
6-10-3 District Described	6-10-9 Protest
6-10-4 Buildings Permitted	6-10-10 Fees
6-10-5 Rules and Regulations	6-10-11 Action to Abate
6-10-6 Set Back	6-10-12 Certifying Ordinance

6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Shambaugh, 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.

The entire area within the corporate limits of the City of Shambaugh with the following exceptions:

Main Street between 2<sup>nd</sup> and 3<sup>rd</sup> Streets.  
Cinder Alley.

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.

Minimum Regulations for Residential Dwellings:

1. No flat or corrugated sheet metal
2. Minimum floor area of 640 square feet
3. Placed on a permanent continuous foundation.

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 5,000 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 setbacks 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 NUMBERING OF BUILDINGS

6-11-1 Buildings to be Numbered

6-11-4 Type of Numbers, Size

6-11-2 Numbering System

6-11-5 Enforcement

6-11-3 Mandatory Numbering

6-11-1 BUILDINGS TO BE NUMBERED. All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-11-2 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

6-11-3 MANDATORY NUMBERING. The placing of numbers is mandatory.

6-11-4 TYPE OF NUMBERS, SIZE. The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than three inches in height.

6-11-5 ENFORCEMENT. If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 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 Reserved	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 RESERVED.

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 thirty (30) 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 640 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.
3. No flat or corrugated sheet metal shall be allowed.
4. All residences shall be placed on lots of no less than 5,000 feet.

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 City Clerk in duplicate, one copy for the applicant and one copy to be retained in the City records.

6-12-17 LIMITATIONS ON PERMIT. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect. All permits shall expire and be void twelve (12) months after issuance by the City Clerk. If construction is not completed a new application and fee must be submitted.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 NAMING OF STREETS

6-13-1 Naming New Streets

6-13-4 Revision of Street Name Map

6-13-2 Recording Street Names

6-13-5 Changing Name of Street

6-13-3 Official Street Name Map

6-13-1 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets that are added to the City that are natural extensions of existing streets shall be assigned the name of the existing streets shall be assigned the name of the existing street.
2. Ordinance. All street names, except streets named as part of a subdivision or platting procedure, shall be named by ordinance.

6-13-2 RECORDING STREET NAMES. Following adoption of an ordinance naming or changing the name of a street, the Mayor and Clerk shall certify and file a copy thereof with the County Recorder and County Auditor.

(Code of Iowa, Sec 409.17)

6-13-3 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 6-13-3 of the City Code of Shambaugh, Iowa."

6-13-4 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the governing body with an entry on the Official Street Name Map as follows:

"On \_\_\_\_\_, by official action by the City Council, the following change(s) were made in the Official Street Name Map: \_\_\_\_\_," which entry shall be signed by the Mayor and attested by the Clerk. The amendment of this chapter which involves naming or changing the name of a street shall not become effective until after such change and entry has been made on said map.

6-13-5 CHANGING NAME OF STREET. The Council may, by ordinance, change the name of a street.

(Code of Iowa, Sec 409.17)

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 1 STREET GRADES**

#### 7-1-1 Established Grades

#### 7-1-2 Record Maintained

7-1-1 ESTABLISHED GRADES. The grades of all street, alleys, and sidewalks which have been established by ordinance are hereby confirmed, ratified, and established as official grade.

7-1-2 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 VACATED STREETS AND ALLEYS

7-2-1 Power to Vacate

7-2-4 Disposal of Streets

7-2-2 Notice of Vacation

7-2-5 Disposal by Gift

7-2-3 Findings Required

7-2-1 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, they may do so in accordance with the provisions of this article.

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

7-2-2 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing at which time the proposal to vacate shall be considered. In addition to published notice, notice shall be posted at least twice, on each block along the street or alley proposed to be vacated, not more than twenty-five (25) days nor less than ten (10) days prior to the date set for the hearing.

7-2-3 FINDINGS REQUIRED. Not street, or alley, or portion of a street or alley, shall be vacated unless the Council finds that:

1. Public Use. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

(Code of Iowa, Sec. 364.15)

7-2-4 DISPOSAL OF STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, or portion of a street or alley, they may do so by resolution following notice and hearing.

(Code of Iowa, Sec. 364.7)

7-2-5 DISPOSAL BY GIFT LIMITED. The City may not dispose of a vacated street or alley, or portion of a street or alley, by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 3 ELECTRIC FRANCHISE**

7-3-1 Purpose

7-3-3 Franchise Fees

7-3-2 Right Granted

7-3-1 **PURPOSE.** An ordinance granting unto MidAmerican Energy Company, its successors and assigns the right, franchise and privilege for a period of twenty-five years (25) years from and after the adoption and approval hereof, to acquire, construct, operate and maintain in the City of Shambaugh, Iowa the necessary facilities for the production, distribution, transmission, and sale of electric energy for public streets, highways, avenues, alleys, bridges, and conditions thereof.

7-3-2 **RIGHT OF GRANTED.** That MidAmerican Energy Company, its successors or assigns, be and it is hereby granted and vested with the right, franchise and privilege for a period of twenty-five years from and after the adoption and approval hereof, as provided by law, to acquire, construct, operate and maintain in the City of Shambaugh, Iowa the necessary facilities for the production, distribution, transmission and sale of electric energy for public and private use, and to construct and maintain along, upon, across, and under the streets, highways, avenues, alleys, bridges, and public places the necessary fixtures and equipment for such purpose.

7-3-3 **FRANCHISE FEES.** The City is hereby authorized to collect franchise fees from MidAmerican Energy, its successor or assigns, for a period of twenty-five years.

NOTE: The above franchise was approved by the City Council on December 7, 2011.

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 4 RESERVED**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 5 RESERVED**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 6 RESERVED**

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 7 CORPORATE LIMITS**

7-7-1 CORPORATE LIMITS. The corporate limits of the city of Shambaugh are described as follows:

Beginning at the NW Cor. SW NE Sec. 36:-68-37; Thence east to the NE Cor. SW NE Sec. 36-68-37; Thence south to the westerly line of the abandoned C.B. & Q. Railroad right-of-way; Thence south-easterly along said right-of-way line to a point 300 feet north of the north line of the NE SW 1/4 Sec. 36-68-37; Thence due west 100 feet; Thence south 300 feet to the north line of the NE SW 1/4 Sec. 36-68-37; Thence east to the E. 1/4 Cor. Sec. 36-68-37; Thence south to the SE Cor. NE SE Sec. 36-68-37; Thence west to a point 316 feet east of the SW Cor. NE SE Sec. 36-68-37; Thence south to the north right-of-way line of U.S. Highway 71; Thence west along the north line of U.S. Highway 71 and north along the east line of U.S. Highway 71 to the point of beginning.



