CITY OF HENDERSON CODE OF ORDINANCES

2022

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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. "Building" means any man-made structure permanently affixed to the ground.

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

3. "Clerk" means Clerk-Treasurer.

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

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

6. "County" means the County of Mills, Iowa;

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

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

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

10. "May" confers a power;

11. "Month" means a calendar month;

12. "Must" states a requirement;

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

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

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

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

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

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

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

20. "Property" includes real and personal property;

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

22. "Shall" imposes a duty;

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

24. "State" means the State of Iowa;

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

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

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

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

29. "Year" means a calendar year;

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

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

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

1. Gender. Any gender includes the other gender;

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

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

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

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

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

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Henderson Municipal Code of 2022 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

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

(Amended in 2010)

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

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

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

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: "That the Code of ordinances, City of Henderson, 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.

(Amended in 2010)

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 such person can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

TITLE I GENERAL PROVISIONS

CHAPTER 3 PENALTY

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

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

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

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

1. Definitions.

   a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Henderson, 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 Henderson, 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 Henderson.

   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)
(Amended 2010)

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 sent to 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.

v. The manner, location, and time in which the penalty may be paid.

vi. The time and place of court appearance.

vii. The penalty for failure to appear in court.

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

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

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of **not less than $65.00 but not to exceed $625.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.**

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

TITLE I GENERAL PROVISIONS

CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

1-4-1 Purpose and Intent
1-4-2 General
1-4-3 Form of Notice of Hearing
1-4-4 Subpoenas
1-4-5 Conduct 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 Henderson 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 I GENERAL PROVISIONS

CHAPTER 5 CORPORATE LIMITS

1-5-1 **CORPORATE LIMITS**. The corporate limits of the City are described as follows:

Commencing at a point 283 feet north of the southeast comer of the Northwest Quarter (NW l/4) of the Northeast Quarter (NE 1/4) of section ten (10), township seventy-three (73) north, range forty (40) west of the 5th principal meridian, thence running west 326 feet, thence south 283 feet, thence west to the western right-of-way boundary of the Burlington Northern Railroad, then southwesterly along said right-of-way to a point 467.95 feet west of the southeast comer of the Southeast Quarter (SE l/4) of the Northwest Quarter (NW1/4) of section 10, thence east 62.13 feet, thence southwesterly 568.9 feet along the west boundary of the Burlington Northern right-of-way, thence east 460.5 feet to a point 33 feet west of the eastern boundary of the Northeast Quarter (NE l/4) of the Southwest Quarter (SW1/4) of section 10, then south 16 feet, thence east 686 feet, thence north 16 feet, thence east to the eastern border of the Northwest Quarter (NW l/4) of the Southeast Quarter (SE1/4) of section 10, continuing north along said border to a point 166 feet north of the centerline of section 10, thence east 178 feet, thence north 50 feet, thence east 66 feet, thence south 109 feet, thence east 209 feet, thence north 209 feet, to a point 453 feet east of the western border of the Southeast Quarter (SE l/4) of the Northeast Quarter (NE l/4) of section 10 on the northern border of the South Half(S l/2) of the South Half(S l/2) of the Southeast Quarter (SE l/4) of the Northeast Quarter (NE l/4) of section 10 and continuing east 75 feet on said border, thence north 330 feet, thence west 164 feet on the northern border of the North Half (N l/2) of the South Half (S1/2) of the Southeast Quarter (SE l/4) of the Northeast Quarter (NE l/4) of section 10, thence south 165 feet, thence west 100 feet, thence north 165 feet, thence west 99 feet to a point 165 feet east of the western border of the Southeast Quarter (SE l/4) of the Northeast Quarter (NE l/4) of section 10, thence north 503 feet, thence west 165 feet to the western border of the Southeast Quarter (SE l/4) of the Northeast Quarter (NE l/4) of section 10, thence north 531 feet along said border to the point of beginning.

And

Part of the Northeast Quarter (NE l/4) of the Southeast Quarter (SE l/4) of section ten (10), township seventy-three (73) north, range forty (40) west of the 5th principal meridian, Mills County, Iowa, more particularly described as follows: Beginning at the northwest comer of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE l/4) of section ten (10); thence along the north line of said tract N 90° 00' 00" E 243.0 feet; thence S° 1 01' 00" W 628.1 feet; thence S 90° 00' 00" W 233.2 feet; thence N 0° 07' 20" E 628.0 feet to the point of beginning. Said tract contains 3.422 acres, more or less.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 1 CITY CHARTER

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

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

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

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

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

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of 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
2-2-2 Appointment of Officers
2-2-3 Terms of Appointive Officers
2-2-4 Vacancies in Offices
2-2-5 Bonds Required
2-2-6 Surety
2-2-7 Blanket Position Bond
2-2-8 Bonds Filed
2-2-9 Boards and Commissions

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

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. 372.4(2))

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

2-3-1 Oaths
2-3-2 General Duties
2-3-3 Books and Records
2-3-4 Deposits of Municipal Funds
2-3-5 Transfer of Records and Property To Successor
2-3-6 Powers and Duties of the Mayor
2-3-7 Powers and Duties of the Clerk
2-3-8 Powers and Duties of the City Attorney
2-3-9 Reserved
2-3-10 Reserved
2-3-11 Powers and Duties of the City Treasurer

2-3-1 OATHS. The oath of office shall be required and administered in accordance with the following:

1. Qualify for office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after being certified as elected but not later than noon on the first day which is not a Sunday or legal holiday in January of the first year of the term for which the officer was elected.

   (Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Henderson as now or hereafter required by law."

   (Code of Iowa, Sec. 63.10)

3. Officers Empowered to Administer Oaths. The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

   a. Mayor
   b. City Clerk
   c. Members of all boards, commissions, or bodies created by law

   (Code of Iowa, Sec. 63A.2)

2-3-2 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 an affirmative vote of not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor’s veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.

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

   (Code of Iowa. Sec. 380.6)

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

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

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

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

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to 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))

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

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

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

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing.

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 within fifteen (15) days of the City Council meeting. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

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

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

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

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

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

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

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

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

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

   (Code of Iowa, Sec. 362.3)

6. The Clerk shall certify all measures establishing any zoning district, building lines, or fire limits, and a plat showing each district, lines or limits to the recorder of the county containing the affected parts of the City.
(Code of Iowa, Sec. 380.11)

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

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

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 keep a register of all bonds outstanding and record all payments of interest and principal.

14. The Clerk shall prepare and publish 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)

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

16. 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))

17. 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.

18. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control as it may be necessary to such officer in the discharge of the duties of the municipal officer. The Clerk shall furnish a copy of any record, paper or public document unde the control of the Clerk, which is not a "confidential record" as defined under Iowa Code Section 22.7, 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 municipal 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)

19. 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))

20. 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))

21. 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))

22. 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))

23. 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)

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

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

25. 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))

26. 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))

27. 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))

28. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.
(Code of Iowa, Sec. 384.16)

29. The Clerk shall keep the record of each fund separate.
(Code of Iowa, Sec. 372.13(4) and 384.85)

30. 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))

31. 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))

32. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.
(Code of Iowa, Sec. 372.13(4))

33. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.
(Code of Iowa, Sec. 372.13(4))

2-3-7 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 defended 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 of such ordinances 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 such 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 deficiencies 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 such contracts become binding upon the City or are published.

2-3-9 RESERVED

2-3-10 RESERVED.

2-3-11 RESERVED

2-3-12 POWERS AND DUTIES OF THE CITY TREASURER. The duties of the City Treasurer shall be as follows:

1. Record of Fund. Keep the record of each fund separate.

2. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.

3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

4. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

5. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

6. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

2-4-1 Council Member
2-4-2 Mayor
2-4-3 Mayor Pro Tem
2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be $10.00 for each meeting of the City Council attended but in no event shall any City Council member be paid more than $250 in any one year.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of $480.00 paid annually.

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

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

(Code of Iowa, Sec. 384.16)

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

   a. Expenditures for each program.

   b. Income from sources other than property taxation.

   c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

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

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

   (Amended in 2012) [Code of Iowa, Sec. 384.16(2)]

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

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

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

The budget amendment shall be prepared and adopted in the same manner as the original budget, 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 RESERVED.

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

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

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

2-5-7 RESERVED.

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. Purchases not exceeding two-hundred dollars ($200.00) may be made by those officials authorized by resolution of the City Council

2-5-10 AUTHORIZATIONS TO EXPEND. The Clerk shall draw a check only upon an invoice received, or progress billing for a public improvement.

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

(Code of Iowa, Sec. 384.20)

2-5-12 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 6 POSTING

2-6-1 Purpose
2-6-2 Listing; Length of Notice
2-6-3 Removal Unlawful

2-6-1 PURPOSE. The City of Henderson, 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. Methodist Church
2. City Hall
3. Christian Church

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 the city clerk 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
2-7-2 Nominating Method to be Used
2-7-3 Nominations by Petition
2-7-4 Adding Name by Petition
2-7-5 Preparation of Petition
2-7-6 Filing, Presumption, Withdrawals, Objections
2-7-7 Persons Elected

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.

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.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 8 LAW ENFORCEMENT

2-8-1 Establishment of Services by 28E Agreement
2-8-2 Copy of Agreement

2-8-1 ESTABLISHMENT OF SERVICES BY 28E AGREEMENT. The City of Henderson 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 Mills 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 Mills County Recorder, Mills 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
2-9-2 Exercise of Power
2-9-3 Meetings

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 2-10-1 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 second Tuesday of each month at 7:00 o'clock (7:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the 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))

TITLE II POLICY AND ADMINISTRATION

CHAPTER 10 MEETINGS

2-10-1 MEETINGS. All meetings of the City Council, any Board or Commission, or any multimembered body formally and directly created by and of the foregoing bodies shall be held in accordance with the following:

1. Schedule of Meetings. All meetings times and dates of the boards and commissions shall be established no less frequently than once a calendar year and shall be submitted to the City Clerk before the beginning of each calendar years so they can be distributed to the City Council. Any changes to that schedule will then be changed after notification to the Council.

2. Notice of Meetings. Reasonable notice, as defined by State Law, of the time, date and place of each meeting, and tentative agenda shall be given.
(Code of Iowa, Sec. 21.4)

3. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State Law.
(Code of Iowa, Sec. 21.3)

4. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.
(Code of Iowa, Sec. 21.3)

5. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the Iowa Code.
(Code of Iowa, Sec. 21.5)

6. Cameras and Recorders. The public may use cameras or recording devices at any open session.
(Code of Iowa, Sec. 21.7)

7. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provision of Chapter 21 of the Iowa Code.
(Code of Iowa, Sec. 21.8)

TITLE III COMMUNITY PROTECTION

CHAPTER 1 OFFENSES

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

1. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to **a person other than the person's spouse, or who commits a sex act in the presence or view of a third person, if the person does so to arouse or satisfy the sexual desires of either party and the person knows, or reasonably should know, that the act is offensive to the viewer.**

(Code of Iowa, Sec. 709.9)

2. **Public Urination/Defecation. It shall be unlawful for any person to urinate or defecate in a public place, other than a structure equipped with a toilet and/or urinal, in the presence of or in view of another person if the person knows, or reasonably should know, that such behavior would be offensive to a reasonable person.**

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.

3-1-5 PUBLIC SAFETY AND HEALTH.

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

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

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 or other legal entity 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 a City Agency, fair associations, amusement parks, and other organizations or groups of individuals approved by the City Council when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

Personal Injury: $250,000 per person
Property Damage: $50,000
Total Exposure: $1,000,000

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 Mayor, the law enforcement 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 themself 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 Mayor or City Council for such purposes.

(Code of Iowa, Sec. 364.12)

3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or damage 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. Damage to public library books or property. No person shall willfully or recklessly tear, deface, mutilate, damage or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

9. Obstructing or defacing roads. No person shall obstruct, deface or damage any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.

(Code of Iowa, Sec. 716.1)

10. Damage to roads, railways, and other utilities. No person shall damage, 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 damage any public road or highway; or cut, burn, or in any way break down, damage 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 damage and deface any electric light, telegraph or telephone instrument; or in any way cut, break or damage the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, damage, break, disconnect,

connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 727.8)

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

(Code of Iowa, Sec. 716.1)

TITLE III COMMUNITY PROTECTION

CHAPTER 2 NUISANCES

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. 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)

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

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

s. Weeds. Any condition relating to weeds which is described as a nuisance in the Henderson Municipal Code of Ordinances or under state law.

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

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

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

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

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

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

z. Dangerous buildings or structures.

aa. Abandoned buildings.

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

cc. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Henderson Municipal Code of Ordinances.

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

ee. The open burning of trash, refuse, garbage, junk or salvage materials, yard waste, leaves and tree trimmings shall be prohibited within the City limits, unless permission has been given by City Council. Outdoor cooking or burning of wood is permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter.

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

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

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

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

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

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

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

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

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

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

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

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

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

ss. Pools and ponds containing stagnant water.

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

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

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

(Non-exhaustive List)

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, may be abated by criminal citation, municipal infraction or as otherwise provided in this Ordinance or Code of Iowa.

(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 may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

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

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

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

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

2. The location of the nuisance or condition.

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

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

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

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

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

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

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

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein,

after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A)

SECTION 2. NUISANCES PROHIBITED.

The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as provided in this Ordinance.

SECTION 3. OTHER PROHIBITED CONDITIONS.

The following actions are required and failure to do so shall constitute a nuisance prohibited herein:

A. The removal of diseased or dead trees or branches on private property. This provision does not apply to trees located on City right-of-way.

B. The removal, repair or dismantling of a dangerous building or structure.

C. The numbering of buildings.

D. The connection to public drainage systems.

E. The connection to public sewer systems and the installation of sanitary toilet facilities.

SECTION 4. NOTICE TO ABATE NUISANCE.

Whenever the Mayor, other authorized municipal employee or City Council verifies that a nuisance or other condition as set forth in this Ordinance exists, he or she shall authorize the City Clerk to send the property owners a written notice to abate the nuisance within a reasonable time after the notice.

SECTION 5. CONTENTS OF NOTICE TO ABATE.

The notice to abate shall be delivered by ordinary mail and shall contain:

A. A description of the nuisance.

B. The location of the nuisance.

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

D. A time period within which to complete the abatement.

E. A statement that if the nuisance is not abated as directed, the consequences that may occur.

SECTION 6. REQUEST FOR HEARING.

Any person ordered to abate a nuisance may have a hearing with the officer/employee ordering the abatement. A request for hearing must be made in writing and delivered to the officer/employee ordering the abatement within seven working days of the receipt of the notice or the right to hearing shall be waived.

At the conclusion of the hearing, the officer/employee shall render a decision as to whether a nuisance or prohibited condition exists. If the decision is upheld, the nuisance must be abated immediately.

The property owner may appeal this decision by filing written notice with the City Clerk within five calendar days of the decision. The appeal will be heard before the City Council at a time and place fixed by the City Council. The findings of the Council shall be conclusive, and, if a nuisance is found to exist, it shall be ordered abated.

SECTION 7. ABATEMENT IN EMERGENCY.

If it is determined that an emergency exists by reason of the continuing maintenance of a nuisance, the City may perform any action which may be required under this Ordinance without prior notice and may assess the costs of the abatement to the property owner. The property owner has the right to appeal the assessment of the costs as provided in Section 6 above.

SECTION 8. ABATEMENT BY CITY.

If the person notified to abate a nuisance fails to abate the nuisance as directed, the City may perform the required action to abate and assess the costs to the property or may file criminal charges or a municipal infraction citation as the City deems fit.

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 City Council 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

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3-3-11 Turning Markers, Buttons and Signs
3-3-12 Authority to Place Restricted Turn Signs
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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.

3. "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.

4. "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.

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

6. "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.

7. "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.

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

(Code of Iowa, Sec. 321.1)

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

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

(Code of Iowa, Sec. 321.266)

3-3-4 RESERVED

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the Mill's County Sheriff's Department. The officers of the sheriff's 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 sheriff's department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

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

1.	321.98	Operation without registration.
2.	321.180	Violations of instruction permit limitations.
3.	321.193	Violation of conditions of restricted license.
4.	321.194	Violation of conditions of minor's school license.
5.	321.216	Unlawful use of license.
6.	321.218	Driving without a valid license (as to simple misdemeanor offenses only).
7.	321.219	Permitting unauthorized minor to drive.
8.	321.220	Permitting unauthorized person to drive.
9.	321.229	Failure to comply with lawful order of peace officer.
10.	321.231	Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
11.	321.232	Radar jamming devices.
12.	321.234	Failure to observe seating requirements.
13.	321.236	(Parking) Violation of local ordinance (not a state offense).
14.	321.256	Failure to obey traffic control device.
15.	321.257	Failure to obey or yield to pedestrian or to official traffic control signal.
16.	321.260	Unlawful possession of, or interference with traffic control device.

17.	321.264	Striking unattended vehicle.
18.	321.265	Striking fixtures upon a highway.
19.	321.275	Motorcycle and motorized bicycles violations.
20.	321.277	Reckless driving.
21.	321.278	Drag racing prohibited.
22.	321.285	Speed restrictions.
23.	321.286	Truck speed limits (highway).
24.	321.287	Bus speed limits (highway).
25.	321.288	Failure to maintain control.
26.	321.294	Failure to maintain minimum speed when directed by officer.
27.	321.295	Excessive speed on bridge.
28.	321.297	Driving on wrong side of two-way highway.
29.	321.298	Failure to yield half of roadway upon meeting vehicle.
30.	321.299	Passing on wrong side.
31.	321.303	Unsafe passing.
32.	321.304	Unlawful passing.
33.	321.305	Violating one-way traffic designation.
34.	321.306	Improper use of lanes.
35.	321.307	Following too closely.
36.	321.308	Following too closely (trucks and towing vehicles).
37.	321.309	Failure to use approved drawbar.
38.	321.310	Unlawful towing of four-wheeled trailer.

39.	321.311	Turning from improper lane.
40.	321.312	Making U-turn on curve or hill.
41.	321.313	Unsafe starting of a stopped vehicle.
42.	321.314	Unsafe turn or failure to give signal.
43.	321.315	Failure to give continuous turn signal.
44.	321.316	Failure to signal stop or rapid deceleration.
45.	321.317	Signal light requirements; see equipment violation.
46.	321.318	Incorrect hand signal.
47.	321.319	Failure to yield to vehicle on right.
48.	321.320	Failure to yield upon left turn.
49.	321.321	Failure to yield upon entering through highway.
50.	321.322	Failure to obey stop or yield sign.
51.	321.323	Unsafe backing on highway.
52.	321.324	Failure to yield to emergency vehicle.
53.	321.325	Pedestrian disobeying traffic control signal.
54.	321.326	Pedestrian walking on wrong side of highway.
55.	321.327	Pedestrian right-of-way.
56.	321.328	Pedestrian failing to use crosswalk.
57.	321.329	Vehicle failing to yield to pedestrian.
58.	321.331	Soliciting ride from within roadway.
59.	321.332	Unlawful use of white cane.
60.	321.333	Failure to yield to blind person.

61.	321.340	Driving in or through safety zone.
62.	321.341	Failure to properly stop at railroad crossing.
63.	321.342	Failure to obey stop sign at railroad crossing.
64.	321.343	Failure to stop certain cargo or passenger vehicle at railroad crossing.
65.	321.344	Unlawful movement of construction equipment across railroad track.
66.	321.353	Unsafe entry into sidewalk or roadway.
67.	321.354	Stopping on traveled part of highway.
68.	321.358	Stopping, standing, or parking where prohibited.
69.	321.360	Prohibited parking in front of certain buildings.
70.	321.361	Parking too far from curb/angular parking.
71.	321.362	Parking without stopping engine and setting brake.
72.	321.363	Driving with obstructed view or control.
73.	321.365	Coasting upon downgrade.
74.	321.366	Improper use of median, curb, or controlled access facility.
75.	321.367	Failure to maintain distance fire-fighting vehicle.
76.	321.368	Crossing unprotected fire hose.
77.	321.369	Putting debris on highway/roadway.
78.	321.370	Removing injurious material.
79.	321.371	Clearing up wrecks.
80.	321.372	School bus provisions.
81.	321.377	Excessive speed of school bus.
82.	321.381	Driving or towing unsafe vehicle.

83.	321.382	Operating underpowered vehicle.
84.	321.383	Failure to display reflective device on slow-moving vehicles.
85.	321.384	Failure to use headlamps when required.
86.	321.385	Insufficient number of headlamps.
87.	321.386	Insufficient number of headlamps-motorcycles and motorized bicycles.
88.	321.387	Improper rear lamp.
89.	321.388	Improper registration plate lamp.
90.	321.389	Improper rear reflector.
91.	321.390	Reflector requirements.
92.	321.391	Improper type of reflector.
93.	321.392	Improper clearance lighting on truck or trailer.
94.	321.393	Lighting device color and mounting.
95.	321.394	No lamp or flag on rear-projecting load.
96.	321.395	Parking on certain roadways without parking lights.
97.	321.397	Improper light on bicycle.
98.	321.398	Improper light on other vehicle.
99.	321.402	Improper use of spotlight.
100.	321.403	Improper use of auxiliary driving lights.
101.	321.404	Improper brake light.
102.	321.408	Back-up lamps.
103.	321.409	Improperly adjusted headlamps.
104.	321.415	Failure to dim.

105.	321.419	Improper headlighting when night driving.
106.	321.420	Excessive number of driving lights.
107.	321.422	Lights of improper color-front or rear.
108.	321.423	Special light/signal provision.
109.	321.430	Defective braking equipment.
110.	321.431	Brake performance ability.
111.	321.432	Defective audible warning device.
112.	321.433	Unauthorized use of emergency audible warning devices on motor vehicle.
113.	321.434	Use of siren or whistle on bicycle.
114.	321.436	Defective or unauthorized muffler system.
115.	321.437	Mirrors.
116.	321.438	Windshields.
117.	321.439	Defective windshield wiper.
118.	321.440	Defective tires.
119.	321.441	Unauthorized use of metal tire or track.
120.	321.442	Unauthorized use of metal projection on wheels.
121.	321.444	Failure to use safety glass.
122.	321.445	Failure to maintain or use safety belts.
123.	321.446	Failure to secure child.
124.	321.449	Special regulations.
125.	321.450	Hazardous materials.
126.	321.454	Width and length violations.

127.	321.455	Excessive side projection of load – passenger vehicle.
128.	321.456	Excessive height.
129.	321.457	Excessive length.
130.	321.458	Excessive projection from front of vehicle.
131.	321.459	Excessive weight – dual axels (each over 2000 lb. over).
132.	321.460	Spilling loads on highways.
133.	321.461	Excessive tow-bar length.
134.	321.462	Failure to use required towing equipment.
135.	321.463	Maximum gross weight.
136.	321.466	Gross weight in excess of registered gross weight (for each 2000 lb. over).

TRAFFIC CONTROL DEVICES

3-3-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The 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.

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

(Code of Iowa, Sec. 321.255 and 321.256)

The Council may designate and maintain crosswalks by appropriate traffic control devices 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.

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

3-3-8 THE 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 City Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

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

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:

1. Increased speed limit:

2. Lower speed limit:
   West Street 20 miles per hours
   Southeast Street 20 miles per hour

(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:

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.

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

SPECIAL STOPS REQUIRED

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

(Code of Iowa, Sec. 321.345 and 321.350)

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.

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. Within the public right of way parallel to the street.

3. Upon any roadway or street within the City of Henderson for a period of 48 consecutive hours or more.

4. In front of a public or private driveway.

5. Within an intersection.

6. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.

7. On a crosswalk.

8. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.

9. 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.

10. 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.

11. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

12. On the roadway side of any vehicle stopped or parked at the edge or curb of street.

13. 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.

14. 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.

15. At any place where official signs or curb markings prohibit stopping, standing or parking.

16. Within ten (10) feet of the crosswalk at all intersections within the City.

17. 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 curbings 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 the Mill's County Sherriff's Department or State Law Enforcement officers 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 law enforcement, 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 Mayor 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 Mayor 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 TRUCK PARKING LIMITED. Trucks licensed for five tons or more shall not be parked at the following locations on the streets named:

No truck parking allowed on streets within City limits unless special permission is given by the Council for a designated time or purpose.

MISCELLANEOUS DRIVING RULES

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

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

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

1. Displaying such vehicle for sale.

2. Displaying advertising.

3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.

4. Storage or as junk or dead storage for more than forty-eight hours.

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

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

3-3-41 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 **streets within Henderson City limits.**

3-3-42 TRUCK ROUTES.

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

   West Street south to Highway Street, then on Highway Street east and south to City limits.

2. Any motor vehicle licensed for five tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

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

3-3-43 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.

3-3-44 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust

device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

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

BICYCLE REGULATIONS

3-3-45 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)
(Amended in 2008)

3-3-46 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.

3-3-47 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.

3-3-48 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.

3-3-49 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-50 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.

3-3-51 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.

3-3-52 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.

3-3-53 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.

3-3-54 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

3-3-55 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.

3-3-56 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.

3-3-57 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.

8. No person under sixteen years of age shall operate a snowmobile on a designated snowmobile trail, public land, or public ice unless the operation is under the direct supervision of a parent, legal guardian, or another person of at least eighteen years of age authorized by the parent or guardian, who is experienced in snowmobile operation and who possesses valid driver's license or an education certificate issued under Chapter 321G of the Iowa Code.

(Iowa Code 321G.20)

3-3-58 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.

3-3-59 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.

3-3-60 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.

3-3-61 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

3-3-62 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 does not include farm tractors or

equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

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))

3-3-63 OPERATION OF OFF-ROAD VEHICLES. The operation of ATV or off-road motorcycles shall comply with the following restrictions:

1. Streets. Only on such streets as may be designated by the City Council.
(Code of Iowa 321.234A)
(Code of Iowa 321I)

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.
(Code of Iowa, Sec. 321I.10{3})

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

4. Time of Operation. Shall only be operated between sunrise and sunset.
(Code of Iowa 321I.13)

OR

5. Operation During Darkness. Every all-terrain vehicle operated during the hours of darkness shall display a lighted headlamp and tail lamp.
(Code of Iowa 321I.13)

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

7. License. All persons twelve years of age or older but less than eighteen years of age shall not operate an all-terrain vehicle on public land, public ice, a designated riding trail, or land purchased with all-terrain vehicle registration funds without obtaining a valid education certificate and having the certificate in the person's possession.
(Iowa Code 321I.21)

8. Minors. A person under twelve years of age shall not operate an all-terrain vehicle, including an off-road motorcycle, on a designated riding area or designated riding trail or on public land or public ice unless one of the following applies:

   a. The person is taking a prescribed education training course and the operation is under the direct supervision of a certified all-terrain vehicle education instructor.

   b. The operation is under the direct supervision of a responsible parent or guardian of at least eighteen years of age who is experienced in all-terrain operation or off-road motorcycle operation and who possesses a valid driver's license.

(Code of Iowa 321I.26)
(Code of Iowa 321I.21)

9. No person shall operate an ATV, off-road motorcycle, or off-road utility vehicle within the City in violation of Chapter 321I of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment, and manner of operation

(Code of Iowa, Sec. 321I)

3-3-64 RESERVED

3-3-65 RESERVED

3-3-66 RESERVED

GOLF CARTS

3-3-67 DEFINITIONS.

1. "Golf cart" means a three or four wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf, which is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.

2. "Operate" means to ride in or on, other than as a passenger, use, or, control the operation of a golf cart in any manner, whether or not the golf cart is moving.

3. "Operator" means a person, who operates or is in actual physical control of a golf cart.

4. "Roadway" means that portion of a street improved, designated, or ordinarily used for vehicular travel.

5. “Street” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular travel.

3-3-68 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver’s license. The City Council may impose restrictions and conditions in addition to those set forth in this section. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

1. The operation of the golf carts, on city streets, is to be only by persons possessing a valid driver’s license or by special permit for disabilities and 18 years of age or older.
(Code of Iowa, Sec. 321.247)

2. It is unlawful for any parent, guardian, or other person having the care, custody, and control of a minor under the age of eighteen (18) years to knowingly or negligently permit or allow such a minor to violate the provisions of this Section.
(Code of Iowa, Sec. 321.219)

3. The operation of golf cars on city streets is to be only from sunrise to sunset. They shall not be operated when visibility is such that there is insufficient light to clearly see person and vehicles at a distance of 500 feet.
(Code of Iowa, Sec. 321.247)

4. The number of occupants in the motorized golf cart may not exceed the design occupant load.

3-3-69 EQUIPMENT REQUIRED

1. Golf carts shall be equipped with a slow moving vehicle sign and a bicycle safety flag for operation on city streets.

2. Golf carts shall be equipped with adequate brakes to be operated on city streets.
(Code of Iowa, Sec. 321.247)

3. Golf carts shall be in good mechanical condition and thoroughly safe for transportation of passengers.

4. Golf cart operators and passengers are required to wear seatbelts if golf carts are equipped with them from the original manufacturer.

3-3-70 UNLAWFUL OPERATION. A person shall not drive or operate a golf cart:

1. In a careless or reckless, or negligent manner as to endanger the person or property of another or cause injury or damage thereto.
(Code of Iowa, Sec. 321.277 & 321.277A)

2. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
(Code of Iowa, Sec. 321J.2)

3. In or on any park, playground, sidewalk, or upon any publicly owned property except with the permission of the governing body thereof.

3-3-71 PENALTY. A person who violates Sections 3-3-69 thru 3-3-71 is guilty of a simple misdemeanor punishable as a scheduled violation under Iowa Code.
(Code of Iowa, Sec. 321J.2)

PENALTIES AND PROCEDURE

3-3-72 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.

3-3-73 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 by 28E Agreement
3-5-2 Copy of Agreement

3-5-1 ESTABLISHMENT OF SERVICES BY 28E AGREEMENT. The City of Henderson has established fire protection services in order to prevent and extinguish fires and to protect lives and property against fire, to promote fire prevention and fire safety, and to answer emergency calls within the corporate limits of the City by participating in a 28E Agreement with Henderson Volunteer Fire Association.

(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 Mills County Recorder, Mills 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
3-6-2 Findings and Purpose
3-6-3 Definitions
3-6-4 Offenses
3-6-5 Defenses
3-6-6 Enforcement

3-6-1 PREAMBLE. The City of Henderson 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 16 in the City of Henderson; and

Persons under the age of 16 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 Henderson has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 10:00 p.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 unmarried person under age 16 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 Henderson, 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 Henderson, 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 law enforcement 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 law enforcement 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 officers.

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

TITLE III COMMUNITY PROTECTION

CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

3-7-1 Definitions
3-7-2 Exemptions
3-7-3 Reserved
3-7-4 Reserved
3-7-5 Hours of Solicitation
3-7-6 Consumer Protection Law
3-7-7 Reserved
3-7-8 Obstruction of Pedestrian or Vehicular Traffic
3-7-9 Reserved
3-7-10 Reserved
3-7-11 Reserved

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 RESERVED

3-7-4 RESERVED

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 8:00 a.m. and 8:00 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 RESERVED

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 RESERVED

3-7-10 RESERVED

3-7-11 RESERVED

TITLE III COMMUNITY PROTECTION

CHAPTER 8 RESERVED

TITLE III COMMUNITY PROTECTION

CHAPTER 9 ALCOHOLIC BEVERAGES

3-9-1 Purpose
3-9-2 Required Obedience to Provisions of this Chapter and State Law
3-9-3 Action by Council
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 for all Liquor Control Licenses. 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
3-10-2 Definitions
3-10-3 Removal of Abandoned Vehicles
3-10-4 Notice of Owners and Lienholders
3-10-5 Impoundment Fees and Bonds
3-10-6 Hearing Procedures
3-10-7 Auction or Disposal of Abandoned Vehicles
3-10-8 Junk Vehicles Declared a Nuisance
3-10-9 Notice to Abate
3-10-10 Abatement by Municipality
3-10-11 Collection of Cost of Abatement
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 law enforcement 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)

   f. Any vehicle not able to move under its own power for a consecutive period of thirty (30) days.

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

6. “Henderson Landmark Antique Machinery” means any piece of machinery that has agricultural historic significance, has been on display in the City for twenty (20) or more years and is kept free of tall and noxious weeds.

3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The City may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The City 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. Nothing in this chapter shall govern the procedures of any law enforcement 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 Chief of Police or Mayor if the Chief of Police is unavailable, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

   a. Describe the year, make, model, and serial number of the vehicle.

   b. Describe the personal property found in the vehicle.

   c. Describe the location of the facility where the vehicle is being held.

   d. Inform the persons receiving notice:

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

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

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

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

   e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

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 Chief of Police prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

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

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

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

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

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

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

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

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

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

3-10-5 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 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 Henderson, 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 City shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the City 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.

4. Henderson Landmark Antique Machinery.

5. A vehicle stored within:
   a. Structure or Fence: A garage or other enclosed structure or enclosed by a **privacy fence** of a material approved by City Council at least six (6) feet high; or
   b. Salvage Yard: An auto salvage yard or junk yard lawfully operated within the 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 LITTERING PROHIBITED

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

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

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

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

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

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

Anti-Scavenging.

It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

TITLE III COMMUNITY PROTECTION

CHAPTER 12 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 13 HAZARDOUS SUBSTANCE SPILLS

3-13-1 Purpose
3-13-2 Definitions
3-13-3 Cleanup Required
3-13-4 Cleanup Costs
3-13-5 Notifications
3-13-6 Law Enforcement Authority
3-13-7 City Liability
3-13-8 Penalty

3-13-1 PURPOSE. In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance spills within the City limits.

3-13-2 DEFINITIONS. For purposes of this Chapter the following terms are defined:

1. "Cleanup" shall mean actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.
   (Code of Iowa, Sec. 455B.381(1))

2. "Hazardous condition" shall mean any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.
   (Code of Iowa, Sec. 455B.381(4))

3. "Hazardous substance" shall mean any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.
   (Code of Iowa, Sec. 455B.381(5))

4. "Responsible person" shall mean a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

(Code of Iowa, Sec. 455B.381(7))

3-13-3 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the City Council and immediately seek any State or Federal funds available for said cleanup.

3-13-4 CLEANUP COSTS. The responsible person shall be strictly liable for all of the following:

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.;

2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person; and

3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

3-13-5 NOTIFICATIONS.

A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources, Mills County Law Enforcement, and the Mayor of the occurrence of a hazardous condition as soon as possible but not later than one (1) hours after the onset of the hazardous condition or discovery of the hazardous condition.

Any other person who discovers a hazardous condition shall notify Mills County Law Enforcement and the Mayor, which shall then notify the Department of Natural Resources.

3-13-6 LAW ENFORCEMENT AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of any law enforcement officer issued under this section.

3-13-7 CITY LIABILITY. The City of Henderson shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except if the City is the responsible party as defined in section 3.11.2 (4) of this code.

3-13-8 PENALTY. Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provision of section 1-3-2 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provision of this chapter may be pursued as a municipal infraction in lieu of criminal prosecution.

TITLE III COMMUNITY PROTECTION

CHAPTER 14 HOUSE MOVERS

3-14-1 Definitions
3-14-2 Permit Required
3-14-3 Application
3-14-4 Bond Required
3-14-5 Insurance Required
3-14-6 Permit Fee
3-14-7 Permit Issued
3-14-8 Public Safety
3-14-9 Time Limit
3-14-10 Removal by City
3-14-11 Protect Pavement
3-14-12 Overhead Wires

3-14-1 DEFINITIONS. A "house mover" means any person who undertakes to move a building or similar structure upon, over, or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any specialized moving equipment.

3-14-2 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved. Building of less than one hundred (100) square feet are exempt from the provisions of this chapter.

3-14-3 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

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

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

3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

3-14-4 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

3-14-5 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the durationof the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury- $100,000.00 per person; $300,000.00 per accident.

2. Property Damage - $50,000.00 per accident.

3-14-6 PERMIT FEE. A permit fee of five dollars ($5.00) per day shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building, or similar structure to be moved.

3-14-7 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

3-14-8 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

3-14-9 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without first secured the written approval of the City.

3-14-10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 3-13-9 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

3-14-11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

3-14-12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL CONTROL

4-1-1 Definitions
4-1-2 Immunization
4-1-3 At Large Prohibited
4-1-4 Animal Nuisances
4-1-5 Impounding
4-1-6 Dangerous Animals
4-1-7 Keeping a Vicious Animal
4-1-8 Kennel Dogs
4-1-9 Livestock
4-1-10 Confinement
4-1-11 Right to Kill an Unlicensed or Licensed Dog

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 direct control of a competent person by being on a leash, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

3. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.

4. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

5. The term “chicken” shall mean a member of the subspecies Gallus Gallus domesticus, a domesticated fowl.

6. The term “duck” shall mean a member of the subspecies Anatidae Anseriformes, a fow1.

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 shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

2. Owners of 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:

i. Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

ii. Wolves, coyotes, and foxes;

iii. Badgers, wolverines, weasels, skunks and mink;

iv. Raccoons;

v. Bears;

vi. Monkeys, chimpanzees, and apes;

vii. Alligators and crocodiles;

viii. Scorpions; gila monsters;

ix. Snakes that are venomous or constrictors;

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:

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. An animal is deemed vicious under any of the following circumstances:

1. Has bitten or clawed another domestic animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, injury, or death to the other domestic animal or human.

2. Has killed any domestic animal, without provocation, while off the property of the attacking animal's owner.

Any animal that meets any of the above-mentioned circumstances, shall be deemed vicious. Owners of the animal shall be notified by written notice that the vicious animal must be removed from the city immediately. If there are no owners, or the owners cannot be found, the animal may be disposed of in a humane manner by city officials or county law enforcement.

4-1-8 BREEDNG OPERATIONS. Kennel dogs, puppy mills and other animal breeding operations where dogs, cats, livestock, and any other animal allowed within Henderson City limits are kept or raised solely for the bona fide purpose of breeding and selling and which are kept under constant restraint are not allowed within Henderson City limits.

4-1-9 LIVESTOCK. It is unlawful for a person to keep livestock within the City except with written permission of the City Council and as provided below.

1. Female chickens and ducks (hens) shall be permitted. No male of either species (roosters and drakes) shall be allowed.

2. Hens shall be kept confined in hutches, coops, or other confinement on owner's principal residential property only. Such enclosures shall be of sufficient size to house the number of fowl permitted by state or national standards and enclosures must be a minimum of twenty-five (25) feet away from all occupied dwellings or an area enclosed by a 6-foot privacy fence. The confinement area shall be maintained free of odors, insects, and rodents, and disturbing noises such as cackling and gobbling and shall cause no safety or health hazards to the general public or interfere with the enjoyment of life and property by any neighboring resident.

3. Hens shall be fed in the confines of their enclosures; all grains and food shall be stored in rodentproof containers. Uneaten food shall be removed in a timely manner.

4. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored at any time. All other manure not used for composting or fertilizing shall be removed. The enclosed and surrounding area shall be kept free from trash and accumulated droppings.

5. The maximum number of total hens kept on each property shall not exceed twelve (12).

6. If three (3) complaints are received within a year by the city, the owner shall be required to dispose of all birds and confinements.

4-1-10 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of confinement.

4-1-11 RIGHT TO KILL AN UNLICENSED OR LICENSED DOG. It shall be lawful for any person to kill a dog, unlicensed, or licensed and wearing a collar with license tag attached, where such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

(Code of Iowa, Sec. 351.27)

TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 1 RESERVED

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 MOBILE HOME REGULATION

6-1-1 Definitions
6-1-2 Location of Mobile Homes
6-1-3 Special Permits for Location of Mobile Homes Outside Mobile Home Parks
6-1-4 Emergency and Temporary Parking
6-1-5 Traffic Code Applicable
6-1-6 Building Requirements
6-1-7 Mobile Home Hookups

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

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

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

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

   (Code of Iowa, Sec. 435.1(3)

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

   (Code of Iowa, Sec. 435.1(5)

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

   (Code of Iowa, Sec. 435.1(6)

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

   (Code of Iowa, Sec. 435.1(7)

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

6-1-3 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of **2** year(s) but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.

2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.

3. A statement of the desired duration of the special permit.

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

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

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent 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 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an

employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by city officials.

(Code of Iowa, Sec. 322B.3)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 2 UTILITIES - SANITARY SYSTEM

6-2-1 Definitions
6-2-2 Use of Public Sewers Required
6-2-3 Private Sewage Disposal
6-2-4 Building Sewers and Connections
6-2-5 Use of the Public Sewers
6-2-6 Protection from Damage
6-2-7 Powers and Authority to Inspectors
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 (l.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 (l/2) inch (l.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. "Sludge" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

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

19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Henderson 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 (100) 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. 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))

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

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

5. 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 **$25.00** dollars for a residential or commercial building sewer permit and **$50.00** 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 Henderson 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 Henderson pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Henderson 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 or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"
6" - 0.180"
8" - 0.240"
10" - 0.300"

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, course sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity

flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

6-2-5 USE OF THE PUBLIC SEWERS.

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

i. 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).

ii. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

iii. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

6-3-1 ENFORCEMENT. The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

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

6-3-3 LICENSE REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a licensed plumber approved 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. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after 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 City Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The fee for the permit shall be $25.00. (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. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

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

6-3-9 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 of freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

6-3-10 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, 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. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 3 percent or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than 6 months. If the meter is found to be accurate or slow less than 3 percent fast, the patron shall pay the reasonable costs of the tests.

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 4 UTILITIES - REFUSE COLLECTION

6-4-1 Definitions
6-4-2 Duty to Provide Cans
6-4-3 Administration
6-4-4 Storage
6-4-5 Collections
6-4-6 Necessity of Permits
6-4-7 Burning of Refuse
6-4-8 Refuse Other Than Garbage
6-4-9 Sanitary Landfill

6-4-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Refuse". Includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.

2. "Garbage". Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.

3. "Rubbish". Includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.

4. "Can". Means a container for the storage of garbage or rubbish, which is:

a. Provided with a handle and tight fitting cover.

b. Made of non-corrosive material.

c. Water-tight.

d. With a capacity of no more than thirty-five (35) gallons.

6-4-2 DUTY TO PROVIDE CANS. Each person shall provide cans or approved containers, **unless provided by the contracted removal company**, for the storage of garbage and rubbish accumulating on the premises owned or occupied by such owner. Such cans or containers shall be kept covered and reasonably clean at all times. The cans or containers shall be in a position readily accessible to the collector.

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

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the City Council.
(Code of Iowa, Sec. 372.13(4)

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

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-4-6 NECESSITY OF PERMIT. **No person, persons, company or group shall collect garbage or rubbish except such person, persons, company or group under contract approved by the City Council.**

In the event any business, firm, or corporation may elect to dispose of refuse or waste matter as may accumulate on any premises, property, or location, the same may be done provided that such disposal and transporting of any refuse or waste matter complies with the provisions of this chapter, is approved by the City and a permit issued by the Clerk.

6-4-7 BURNING OF REFUSE.

1. **It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council and on a day with acceptable weather conditions as directed by the Mills County Emergency Management.**

2. **This section shall not apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.**

3. **This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.**

4. **This section shall not** apply to any incinerator operated under a license granted by the City or any burning conducted under the direction of the fire department for training purposes.

5. This section shall not apply to outdoor cooking appliances used for residential recreational purposes using commonly acceptable fuels.

6-4-8 REFUSE OTHER THAN GARBAGE. Each person shall dispose of all refuse other than garbage and rubbish accumulation on the premises such person owns or occupies before it becomes a nuisance. If it does become a nuisance, it shall be subject to provisions of Title III, Chapter 2 of this Code.

6-4-9 SANITARY LANDFILL. The City Council by resolution may designate a sanitary landfill and establish reasonable rules and regulations necessary to control its use by the public and make charge for the use thereof.

6-4-10 ILLEGAL DUMPING. The purpose of this Section is to prohibit illegal dumping in public places and on private property within the City of Henderson, Iowa, and to promote health, safety and general welfare in the City of Henderson, Iowa.

1. **Illegal dumping prohibited. No person shall dump any garbage, litter, refuse, rubbish, rubble, solid waste, or waste building materials in or upon any private or public place with the City, except in authorized receptacles or in a State licensed sanitary disposal project.**

2. **Enforcement. It shall be the duty of the County Sheriff to administer and enforce Section 6-6-10 in accordance with its provisions.**

3. **Violations and Penalties. The penalty for violating the provisions of Section 6-6-10(1) shall be as set forth in the schedule of civil penalties as follows:**

   a. **For any person who engages in the act of illegal dumping in an amount not exceeding 10 pounds in weight:**

      i. **First offense** **$100.00**
      ii. **Second and subsequent offenses** **$250.00**

   b. **For any person who engages in the act of illegal dumping in amounts exceeding 10 pounds but not 100 pounds in weight:**

      i. **First offense** **$250.00**
      ii. **Second and subsequent offenses** **$500.00**

   c. **For any person who engages in the act of illegal dumping in amount exceeding 100 pounds but not 500 pounds in weight:**

      i. **First offense** **$500.00**
      ii. **Second and Subsequent Offenses** **$750.00**

   d. **For any person who engages in the act of illegal dumping in amounts exceeding 500 pounds in weight:**

      i. **First offense** **$750.00**
      ii. **Second and Subsequent Offenses** **$1,000.00**

4. **For purposes of this section, an offense is considered a second or subsequent offense, if, prior to the person having been convicted of the offense, the offender has ever been convicted under this ordinance.**

5. **Notwithstanding any civil penalties assessed in Section 6-6-10(3) any person who engages in the act of illegal dumping shall also be responsible for the complete abatement, cleanup removal and disposal of any items described in this section herein including but not limited to the cost of any equipment or materials used, any wages paid, and any landfill or disposal fees incurred.**

6. **Each day that a person is in violation of this section, said violation shall constitute a separate violation of this ordinance.**

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 5 UTILITIES - BILLING CHARGES

6-5-1 Utility Defined
6-5-2 Districts
6-5-3 Disposition of Fees and Charges
6-5-4 Billing, Penalty
6-5-5 Discontinuing Services, Fees
6-5-6 Residential Rental Property
6-5-7 Customer Guarantee Deposits
6-5-8 Water Rates
6-5-9 Refuse Collection Rates
6-5-10 Rate of Sewer Rent and Manner of Payment
6-5-11 Availability Charge

6-5-1 UTILITY DEFINED. For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-5-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Henderson, Iowa.

6-5-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-5-4 BILLING, PENALTY. Utility bills shall be due on the last business day of the month during office hours following the period for which service is billed. Payment shall be made to the City Clerk. The bill shall become delinquent after this time. Bills not paid in full each month shall be subject to a late penalty of $10, which shall be added to the outstanding balance of the account.

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

6-5-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

   a. The 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 re-connect fee of $40.00 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))

If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, the following fees shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored.

First offense	$40.00
Second offense within twenty-four (24) months	$50.00
Third offense within twenty-four (24) months	$60.00

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

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

6-5-6 RESIDENTIAL RENTAL PROPERTY. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility may require a deposit not exceeding the usual cost of ninety (90) days of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city utility within thirty **(30)** business days of the change in tenant. When the tenant moves from the rental property, the city utility shall return the deposit if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility within thirty **(30)** business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

[Code of Iowa, Sec. 384.84(3)(d) and Sec. 384.84(3)(e)]
(Amended in 2012)

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))

6-5-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers. Such deposit shall be equal to seventy-five dollars ($75.00). Deposits of customers having established acceptable credit records for three (3) years with the City shall have their deposits returned effective after adoption of this ordinance. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.

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

6-5-8 WATER RATES. Water shall be furnished at the following monthly rates per property serviced within the City limits:

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

The first 3,000 gal. - $31.00
All over 3, 000 gallons - $11.00 per 1,000 gallons

The minimum charge shall be $31.00 per household or business building per billing month. Water rates and minimum charge shall increase by 3% annually on January 1st.

6-5-9 REFUSE COLLECTION RATES. There shall be collected by the City for its services in collecting garbage and rubbish, the following mandatory fees:

1. Residence Rate. For each resident with alley or curb pickup, $16.00 per month for one garbage or rubbish collection each week. In the event that alley or curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.

2. Commercial Rate. Rates for commercial establishments shall be established by the City Council.

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

6-5-10 RATE OF SEWER RENT AND MANNER OF PAYMENT. The rate of sewer rent shall be as follows:

The first 3,000 gal. - $50.00
All over 3, 000 gallons - $5.00 per 1,000 gallons

Sewer rent shall increase by 3% annually on July 1st

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

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

6-5-11 AVAILABILITY CHARGE. During any vacant period in which service is disconnected an "availability" charge of ten dollars ($10.00) will be billed monthly. This charge is for city operations, maintenance, and reserves.

1. Temporarily Vacant Properties. A property owner may request water service to be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time (which must be a minimum of thirty days). The amount of the fees for shutting the water off at the curb valve and for restoring service is set by resolution by the Council. The City will not drain pipes or pull meters for temporary vacancies.

2. Vacant Properties. A property with water and sewer access, regardless of water service being connected or disconnected will be charged the monthly availability charge, until water service is resumed.

3. Occupied Properties. A property that is occupied with water service shut off for nonpayment or any other reason will be charged the monthly availability charge, until water service is resumed.

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 6 STREET CUTS AND EXCAVATIONS

6-6-1 Excavation Permit Required
6-6-2 Application for Permit
6-6-3 Permit Fees
6-6-4 Safety Measures
6-6-5 Backfilling and Restoration
6-6-6 Rules and Regulations

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining an excavation permit application from the City Clerk and approval from City Council.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Council for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Council waives this requirement.

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

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

6-6-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the City the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws

and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-6-5 BACKFILLING 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 City is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-6-6 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 7 SUBDIVISION REGULATIONS

GENERAL PROVISIONS

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GENERAL PROVISIONS

6-7-1 SHORT TITLE. This chapter shall be known and may be cited as "The City of Henderson, Iowa, Subdivision Control Ordinance."

6-7-2 PURPOSE. The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Henderson, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-7-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (December 10, 2014) into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-7-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Henderson, Iowa, as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon the approval of the final plat by the governing body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

DEFINITIONS

6-7-5 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

   (Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

   (Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.
(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the governing body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.
(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
(Code of Iowa, Sec. 354.2(6) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.
(Code of Iowa, Sec. 354.2(7))

16. "Governing Body" means the City Council of the City of Henderson, Iowa.
(Code of Iowa, Sec. 354.2(8))

17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
(Code of Iowa, Sec. 354.2(9) and 355.1(3))

18. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.
(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before (December 10, 2014).

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.
(Code of Iowa, Sec. 354.2(13))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of Henderson, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

28. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.
(Code of Iowa, Sec. 354.2(14))

29. "Planning Commission" means the appointed commission designed by the governing body for the purpose of this Ordinance, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.

30. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

31. "Plats Officer" means the individual assigned the duty to administer this Ordinance by the governing body or other appointing authority.

32. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
(Code of Iowa, Sec. 354.2(16))

34. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

36. "Street, Arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

37. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local" means a street primarily designed to provide access to abutting property.

39. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of (date of original Subdivision Ordinance) into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (date of passage of this Subdivision Ordinance), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1(10))

41. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))

42. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

43. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

IMPROVEMENTS

6-7-6 IMPROVEMENTS REQUIRED. The subdivider shall, at said subdivider's expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-7-7 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

6-7-8 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans with Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks shall be required by the governing body if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer, and comply with the Americans with Disabilities Guidelines (ADAAG).

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

    a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.

    b. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.

    c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the governing body and to the supervision of the Superintendent of public utilities.

6-7-9 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of said resolution of acceptance, the Superintendent of public works shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between sub-divider and the City.

6-7-10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the governing body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.

6-7-11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.

    a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

    b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.

    a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

    b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

    c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

3. Local streets.

    a. Local streets shall be so planned as to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage streets.

   a. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

   b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

6. Street Geometrics.

   a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

   b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

   c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the governing body shall determine for special cases.

7. Intersections.

   a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.

8. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body.

9. Street grades.

   a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

   b. No street grade shall be less than one-half (1/2) of one (1) percent.

10. Alleys.

    a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

    b. The width of an alley shall be twenty (20) feet.

    c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

    d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the governing body.

11. Blocks.

    a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

i. Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area.

ii. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

iii. Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.

14. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially

with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the governing body. The markers shall be of such material, size and length as may be approved by the governing body.

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

6-7-12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

6-7-13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

6-7-14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

6-7-15 PRESENTATION TO PLANNING COMMISSION OR CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-7-16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Means any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.

2. Major Subdivision. Any subdivision that, in the opinion of the governing body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

6-7-17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

6-7-18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.

2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.

3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.

4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.

5. Building setback or front yard lines.

6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

7. Present and proposed easements, showing locations, widths, purposes and limitation.

8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.

9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.

10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.

11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.

6-7-19 REFERRAL OF PRELIMINARY PLAT. The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

6-7-20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of Henderson, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

6-7-21 ACTION BY THE GOVERNING BODY. The governing body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.

4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-7-22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the sub-divider, it may constitute only that portion of the approved preliminary plat which the sub-divider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-7-23 REFERRAL FINAL PLAT. The sub-divider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare and file four (4) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the sub-divider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the governing body. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

At its discretion the governing body may refer the final plat to the City Engineer pursuant to the procedure established in 6-7-18.

6-7-24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of chapter 355, Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.

2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.

3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.

4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.

5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.

6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

6-7-25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

(Code of Iowa, Sec. 354.6(2))

2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.

(Code of Iowa, Sec. 354.11(1))

3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(3))

4. A certificate from the County Treasurer that the subdivision land is free from taxes.

(Code of Iowa, Sec. 354.11(5))

5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.

6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

7. A certificate of dedication of streets and other public property.

(Code of Iowa, Sec. 354.11(1))

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

9. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the governing body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

(Code of Iowa, Sec. 354.11(2) and 354.12)

6-7-26 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 6-7-23 the governing body shall either approve or disapprove the final plat.

(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the Governing Body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the governing body shall accept the same.

3. The passage of a resolution by the governing body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Mills, County, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

OTHER PROVISIONS

6-7-27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Governing Body.

6-7-28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the (choose one)-(zoning or restricted residence district) Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 8 SIDEWALK REGULATIONS

6-8-1 Purpose
6-8-2 Definitions
6-8-3 Cleaning Snow, Ice, and Accumulations
6-8-4 Maintenance Responsibility
6-8-5 Liability of Abutting Owner
6-8-6 Ordering Sidewalk Improvements
6-8-7 Repairing Defective Sidewalks
6-8-8 Notice of Inability to Repair or Barricade
6-8-9 Standard Sidewalk Specifications
6-8-10 Reserved
6-8-11 Reserved
6-8-12 Inspection and Approval
6-8-13 Barricades and Warning Lights
6-8-14 Interference with Sidewalk Improvements
6-8-15 Special Assessments for Construction and Repair
6-8-16 Notice of Assessment for Repair or Cleaning Costs
6-8-17 Hearing and Assessment
6-8-18 Billing and Certifying to County
6-8-19 ADAAG Compliance.

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 Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works 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 last thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise by 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 RESERVED

6-8-11 RESERVED

6-8-12 INSPECTION AND APPROVAL. Upon final completion, **a person designated by the City Council** 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 person designated by the City Council** shall report the findings to the City Council for further discussion and decision.

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).

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 9 RESERVED

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 10 RESTRICTED RESIDENCE DISTRICT

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

6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Henderson, 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 or a tool or "summer" house not exceeding 100 square feet floor area.

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.
All of the incorporated City of Henderson except for:

West side of West street between North and Maple Streets.
Maple Street from West to Oak Street.
Highway Street from Pearl Street to south city limits.

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.

6-10-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure other than a residence, residential accessory use, school, church, or church school within said districts.

6-10-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty feet (20), 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 OUTDOOR FURNACES

6-11-1 Purpose
6-11-2 Definitions
6-11-3 Existing Outdoor Furnaces
6-11-4 Enforcement and Violations

SECTION 1. That the Henderson Municipal Code, and the same is hereby amended by adding Chapter 11, entitled "Outdoor Furnaces", to read as follows:

6-11-1 Purpose. The Henderson City Council finds that smoke, odors and emissions caused by the use of outdoor furnaces can be detrimental to the public health and deprive residents of the enjoyment of their property. The purpose of this Chapter is to ban the installation and construction of outdoor furnaces and establish regulations and restrictions regarding the existing outdoor furnaces within the City of Henderson, to promote the public health, comfort, safety and welfare of the public.

6-11-2 Definitions. For the purposes of this Chapter, the following definitions apply:

1. "Outdoor Furnace" means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of burning fuel to produce heat or energy used in whole or in part as a heating system to provide heat and/or hot water to any structure.

2. "Stack" or "Chimney" means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.

3. "Existing Outdoor Furnaces" means any outdoor furnace in existence as of October 8, 2019.

6-11-3 Existing Outdoor Furnaces. Any outdoor furnace in existence on October 8, 2019, shall be permitted to remain, subject to the following requirements:

1. The owner of any outdoor furnace in existence as of October 9, 2019, shall apply for and receive an outdoor furnace permit from the City Clerk by December 1, 2019. If a permit application is not received for an existing outdoor furnace by December 1, 2019, the outdoor furnace shall be in violation of this ordinance and must be removed.

2. Outdoor furnaces may not be operated between April 1 and October 15 of each year.

3. All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer's specifications and instructions.

4. All outdoor furnaces shall be laboratory tested and listed to appropriate safety standards, such as UL (Underwriters Laboratories), ANSI (American National Standards Institute) or

other applicable safety standards. Outdoor furnaces shall not be located less than thirty (30) feet from the nearest lot line. Outdoor furnaces shall not be located within one hundred (100) feet from any residence not being served by the furnace.

5. Only natural, untreated wood or the manufacturer's listed fuels may be burned in any outdoor furnace. Burning any other materials in the furnace is prohibited. Trash, plastics, gasoline, rubber, naphtha, household garbage, particle board, railroad ties, pressure treated wood or other materials treated with petroleum products, leaves, paper products and cardboard are prohibited.

6. Petroleum products or chemicals shall not be used to start an outdoor furnace.

7. Every outdoor furnace shall be equipped with a stack or chimney. All stacks and chimneys must be constructed as to withstand high winds and other weather elements. In no event shall a stack or chimney extend less than twenty-five (25) feet above the ground.

8. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all of the provisions of this Chapter and any other applicable county, state or federal regulations. All provisions shall continue to apply to an outdoor furnace after a permit has been issued. No existing outdoor furnace may be moved or replaced by a new outdoor furnace.

9. All existing outdoor furnaces shall be inspected each year prior to operation.

No outdoor furnaces shall be allowed within City limits unless written permission is given by the City Council to the owner.

6-11-4 Enforcement and Violations.

1. Any person who violates any of the provisions of this Chapter or any of the terms and conditions of any permit, regulation or lawful order of the City made under the authority of this Chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

2. If any outdoor furnace regulated under this Chapter is installed, constructed, moved, maintained or used in violation of this Chapter or in violation of the terms and conditions issued or made under the authority of this Chapter, a simple misdemeanor citation and/or a municipal infraction citation may be issued to remedy and/or abate the violation.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 12 ACCESSORY BUILDINGS AND STRUCTURES

1. Accessory building shall mean a subordinate structure or use which customarily is identical to that of the principal use of the premises. Customary residential accessory uses include, but are not limited to, yard sheds not exceeding 100 square feet floor area and detached garages as stated in 6-10-2 (4).

2. No accessory building or structure shall be erected on the property more than ninety (90) days prior to the time of completion of the principal structure or use.

3. A building permit must be issued prior to construction of any accessory building or structure.

4. Accessory buildings and structures, other than a private garage, shall be limited to twelve (12) feet in height for sidewalls, and no part of the structure shall be closer than five (5) feet from the principal structure or property line, or as set forth in the Zoning Ordinance or Restricted Residential District Ordinance for property setbacks.

5. A private garage or accessory building or structure may not be taller than the principal structure.

6. No accessory building or structure shall be erected in any yard other than the rear yard, and the structure shall occupy less than 30 percent of the required rear yard.

7. Only two (2) accessory buildings or structures, in addition to one (1) private garage, is permitted per taxable property. Private garages must meet the minimum principal structure front yard and side yard setback requirements.

8. Accessory buildings and structures and garages shall be constructed of materials comparable to the principal structure and shall be of a matching or complementary color.

9. Principal Structures. Only one (1) principal structure may be constructed, located or erected on a single lot in any district within the City.

TITLE VI PHYSICAL ENVIRONMENT
CHAPTER 13 BUILDING PERMITS

6-13-1 Purpose
6-13-2 Structure Defined
6-13-3 Permit Required
6-13-4 Application
6-13-5 Fees
6-13-6 Plans Required
6-13-7 Location of Structure
6-13-8 Front Yard Requirements
6-13-9 Side Yard Requirements
6-13-10 Rear Yard Requirements
6-13-11 Special Requirements for Residences
6-13-12 Variances
6-13-13 Fences
6-13-14 Curb Cuts
6-13-15 Authority of City Council
6-13-16 Permit Issued
6-13-17 Limitations on Permit

6-13-1 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.

6-13-2 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.

6-13-3 PERMIT REQUIRED. No structure shall be erected, reconstructed, altered or added to without first securing a permit from the City Council.

6-13-4 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.

6-13-5 FEES. There shall be a permit fee of $25 per year until project completion.

6-13-6 PLANS REQUIRED. Plans and specifications of any proposed structure shall be filed with the application for the permit.

6-13-7 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.

6-13-8 FRONT YARD REQUIREMENTS. There shall be a front yard of not less than twenty (20) feet, except as follows:

1. Where a structure is to be erected on a parcel of land that is within one hundred (100) feet of existing structures on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent structures on the two sides, or

2. Where a structure is to be erected on a parcel of land that is one hundred (100) feet of an existing structure on one side only within the same block, such structure may be erected as close to the street as a line drawn from the closest front corner of that structure to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed structure is to be erected.

3. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

6-13-9 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.

6-13-10 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.

6-13-11 SPECIAL REQUIREMENTS FOR RESIDENCES. Any structure which is to be a residence for living shall meet the following special requirements.

1. A residence shall have a minimum of 1,000 square feet of livable space on the main floor.

2. All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. All foundations shall have footings that extend below the frost line.

6-13-12 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.

6-13-13 FENCES. No setback requirements shall be applicable to the construction of a fence.

6-13-14 CURB CUTS. No curb cut shall be constructed or permitted without first obtaining a building permit.

6-13-15 AUTHORITY OF CITY COUNCIL. The City Council shall have full authority to accept or reject any plans and specifications submitted.

6-13-16 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.

6-13-17 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 14 NUMBERING OF BUILDINGS

6-14-1 Buildings to be Numbered
6-14-2 Numbering System
6-14-3 Mandatory Numbering
6-14-4 Type of Numbers, Size
6-14-5 Enforcement

6-14-1 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.

6-14-2 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 south sides of all streets and the odd numbers shall be on the east and north sides of all streets.

6-14-3 MANDATORY NUMBERING. The placing of numbers is mandatory **effective _____.**

6-14-4 TYPE OF NUMBERS, SIZE. The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-14-5 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 15 FIRE ZONE

6-15-1 Fire Zone Established
6-15-2 Plans Submitted
6-15-3 Buildings Prohibited
6-15-4 Construction Standards
6-15-5 Reconstruction Prohibited
6-15-6 Special Permits
6-15-7 Removal of Buildings
6-15-8 Storage of Materials Restricted

6-15-1 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

> 100 feet east and west of West Street from the City limits to 100 feet south of Maple Street, and 100 feet north and south of Maple Street for 400 feet east from West Street.

6-15-2 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building, or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

6-15-3 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding are prohibited in the Fire Zone, unless construed in strict compliance with the provisions of this chapter.

6-15-4 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or at a minimum, Type III-1 hours fires resistant- construction, as specified in the Uniform Building Code.

6-15-5 RECONSTRUCITON PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

6-15-6 SPECIAL PERMIT. The Council may, by a vote of at least 4 to 5 in favor, issue a special permit to improve any property within the Fire Zone contrary to the provisions of the chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

6-15-7 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and is such removal or taking down is not completed within thirty (30) days from the time of service of such notice, the Mayor shall cause the same to be removed or taken down. The

Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

6-15-8 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot of part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires whether trash fires or otherwise, within the Fire Zone as described in this chapter.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 16 WATER WELL PROTECTION

6-16-1 Restrictions on Environs of City Well
6-16-2 Legal Description of Well Site
6-16-3 Identification of Contamination Sources
6-16-4 Existing Structures or Facilities

6-16-1 RESTRICTIONS ON ENVIRONS OF CITY WELL. No structure or facility of the following enumerated and listed types shall be located within the following distances from the public well controlled by the City and located at the site described in Section 6-13-2.

1. Well house floor drains - 5 feet;
2. Water treatment plant wastes- 50 feet;
3. Sanitary and industrial discharges - 200 feet;
4. Floor drains from pump house to surface:
    a. None within 5 feet;
    b. to 10 feet- water main materials enclosed in concrete permitted;
    c. 10 to 25 feet- must be water main material;
    d. 25 to 75 feet- must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
    a. None permitted within 25 feet
    b. 25 to 75 feet, must be water main grade material;
    c. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
    a. None permitted within 75 feet;
    b. 75 to 200 feet, must be water main materials;
7. Land application of solid waste - 200 feet;

8. Irrigation of wastewater- 200 feet;
9. Concrete vaults and septic tanks - 200 feet;
10. Mechanical wastewater treatment plants- 200 feet;
11. Cesspools and earth pit privies - 200 feet;
12. Soil absorption fields- 200 feet;
13. Sewage Lagoons - 200 feet;
14. Chemicals:
    a. Application to ground surface - 200 feet;
    b. Above ground storage- 200 feet;
    c. On or underground storage - 200 feet;
15. Animal pasturage- 200 feet;
16. Animal enclosure- 200 feet;
17. Animal wastes:
    a. Land application of solids - 200 feet;
    b. Land application of liquid or slurry- 200 feet;
    c. Storage tank- 200 feet;
    d. Solids stockpile - 200 feet;
    e. Storage basin or lagoon- 200 feet;
18. Earthen silage storage trench or pit - 200 feet;
19. Basements, pits, sumps - 10 feet;
20. Flowing streams or other surface water bodies- 50 feet;
21. Cisterns - 1 00 feet;

22. Cemeteries- 200 feet;

23. Private wells - 200 feet.

6-16-2 LEGAL DESCRIPTION OF WELL SITE. The well is located on a tract of land located in Mills County, Iowa, legally described as follows:

A tract of land located within a 200-foot radius circle located in part of the SE 'l4 SW 'l4 of Section 3, Township 73 North, Range 40 West of the 5th Principle Meridian, Mills County, Iowa, the location of the radius point of said circle being described as follows: Commencing at the S 'l4 Corner of said Section 3, thence N48° 38' 19" W a distance of 308.64 feet to the radius point.
Note: The south line of said SE 'l4 W 'l4 is assumed to bear S89° 50' 35" W for this description.

6-16-3 IDENTIFICATION OF CONTAMINATION SOURCES. The Council shall identify and restrict any potential sources of contamination by following guidelines, rules, and regulations set forth by the Iowa Department of Natural Resources.

6-16-4 EXISTING STRUCTURES OR FACILITIES. The use of structures or facilities existing as of October 8, 1985, may be continued even though such use may not conform with these regulation. However, continued use of such structures or facilities may be subject to approval by the Iowa Department of Natural Resources. Also, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to October 8, 1985.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 17 DANGEROUS BUILDINGS

6-17-1 Enforcement Officer
6-17-2 General Definition of Unsafe
6-17-3 Unsafe Building or Structure
6-17-4 Written Notice to Owner of Building or Structure
6-17-5 Conduct of Oral Hearing
6-17-6 Posting Signs
6-17-7 Right to Demolish Building or Structure
6-17-8 Assessment of Costs

6-17-1 ENFORCEMENT OFFICER. The **Council designee** is responsible for the enforcement of this Chapter.

6-17-2 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))

6-17-3 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.

6-17-4 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.

6-17-5 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.

6-17-6 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 HENDERSON." 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.

6-17-7 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))

6-17-8 ASSEMENT OF COSTS. Costs incurred by the City under Section 6-14-7 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 VI PHYSICAL ENVIRONMENT

CHAPTER 18 FLOODPLAIN

6-18-1 Definitions
6-18-2 Statutory Authority, Findings of Fact and Purpose
6-18-3 General Provisions
6-18-4 Administration
6-18-5 Floodplain Management Standards
6-18-6 Variance Procedures
6-18-7 Non-Conforming Uses
6-18-8 Penalties for Violations
6-18-9 Amendments

6-18-1 – Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

APPURTENANT STRUCTURE – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year (Also commonly referred to as the "100-year flood").

BASE FLOOD ELEVATION (BFE) – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

ENCLOSED AREA BELOW LOWEST FLOOR – The floor of the lowest enclosed area in a building when all the following criteria are met:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of (6-18-5(1)d.i) of this Ordinance, and

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

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

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

EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

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

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

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

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

FIVE HUNDRED (500) YEAR FLOOD – A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

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

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

FLOOD INSURANCE STUDY (FIS) – A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

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

FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for

reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

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

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

FLOODWAY FRINGE - Those portions of the Special Flood Hazard Area outside the floodway.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

HISTORIC STRUCTURE - Any structure that is:

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

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

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

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

LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

MAXIMUM DAMAGE POTENTIAL USES - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than $500.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

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

RECREATIONAL VEHICLE - A vehicle which is:

a. Built on a single chassis;
b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
c. Designed to be self-propelled or permanently towable by a light duty truck; and
d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
c. Basement sealing;
d. Repairing or replacing damaged or broken window panes;
e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA (SFHA)- The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of

excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, grain storage facilities and/or other similar uses.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement , or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

   The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

6-18-2 - Statutory Authority, Findings of Fact and Purpose

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

2. Findings of Fact

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

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

3. Statement of Purpose

It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the city of Henderson and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in (6-18-2(1)a) with provisions designed to:

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

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

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

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

6-18-3 - General Provisions

1. Lands to Which Ordinance Apply. The provisions of this ordinance shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Mills County and Incorporated Areas, City of Henderson, Panel 19129C0118D, dated April 17, 2020,

which were prepared as part of the Mills County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. The Mills County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

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

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

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

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

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

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

6-18-4 - Administration

1. Appointment, Duties and Responsibilities of Local Official

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

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

i. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

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

iii. Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

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

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

vi. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

vii. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

viii. maintain the accuracy of the community's Flood Insurance Rate Maps when;

(1) Development placed within the Floodway (Overlay) District results in any of the following:

a) An increase in the Base Flood Elevations, or
b) Alteration to the floodway boundary
c) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
d) Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

ix. Perform site inspections to ensure compliance with the standards of this Ordinance.

2. Floodplain Development Permit

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

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

i. Description of the work to be covered by the permit for which application is to be made.

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

iii. Location and dimensions of all buildings and building additions

iv. Indication of the use or occupancy for which the proposed work is intended.

v. Elevation of the base flood.

vi. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

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

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

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

d. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other

use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

6-18-5 - Flood Plain Management Standards

1. General Flood Plain Standards

All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100 year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than one hundred (100) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.

a. <u>All development</u> within the areas of significant flood hazard shall:

i. Be consistent with the need to minimize flood damage.

ii. Use construction methods and practices that will minimize flood damage.

iii. Use construction materials and utility equipment that are resistant to flood damage.

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

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

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

c. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

d. All new and substantially improved structures:

i. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

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

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

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

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

iii. New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including

ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

e. Factory-built homes:

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

ii. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

f. Utility and Sanitary Systems:

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

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

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

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

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

h. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

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

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

k. Accessory Structures to Residential Uses

i. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

ii. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

iii. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

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

v. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

vi. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

vii. The structure’s walls shall include openings that satisfy the provisions of (6-18-5(1)d.i) of this Ordinance.

l. Recreational Vehicles

i. Recreational vehicles are exempt from the requirements of (6-18-5(1)e) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

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

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

ii. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of (6-18-5(1)e) of this Ordinance regarding anchoring and elevation of factory-built homes.

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

n. Maximum Damage Potential Uses – All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

o. Until a floodway has been designated, no development or substantial improvement shall be permitted within the special flood hazard area unless the applicant has demonstrated that the cumulative effects of the proposed development, when combined with all other existing and anticipated development, will not increase the 100-year flood elevation more than one (1) foot at any location.

2. Special Floodway Provisions

In addition to the General Flood Plain Standards, uses within the floodway must meet the

following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

a. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

b. All uses within the floodway shall:

   i. Be consistent with the need to minimize flood damage.

   ii. Use construction methods and practices that will minimize flood damage.

   iii. Use construction materials and utility equipment that are resistant to flood damage.

c. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

d. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

e. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited, Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

h. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

i. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

6-18-6 – Variance Procedures

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

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

   b. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

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

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

   e. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

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

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

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

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

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

e. The importance of the services provided by the proposed facility to the City.

f. The requirements of the facility for a floodplain location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

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

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

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

m. Such other factors which are relevant to the purpose of this Ordinance.

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

a. Modification of waste disposal and water supply facilities.

b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

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

e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

6-18-7 - Nonconforming Uses

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

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

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

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

6-18-8 - Penalties for Violation

Violations of the provisions of this ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $(500.00 (FIVE HUNDRED) or imprisoned for not more than (30 (THIRTY) days. Nothing herein contained prevent the City of Henderson from taking such other lawful action as is necessary to prevent or remedy violation.

6-18-9 - Amendments

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

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 NATURAL GAS FRANCHISE

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF HENDERSON, IOWA, A NATURAL GAS SYSTEM AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council and the City of Henderson, Iowa:

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company") and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Henderson, Iowa, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to the City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2007, or as subsequently amended or changed.

Section 3. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, main, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by or under authority of the City.

Section 4. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has reasonable alternative route of the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route, or construction method. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities or by using a different method to perform the street and/or curbing construction, and said other cost of construction or relocation is less than the Company's, the City shall consider but is not required to select route or method that is less expensive. The Company will notify the City if project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 5. In making excavations in any street, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

Section 6. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officer, employees or agents.

Section 7. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

Section 8. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

Section 9. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 10. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council this ordinance shall be void and of no effect.

Section 11. Upon the effective date of this ordinance, all prior gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict are also hereby repealed.

PASSED AND APPROVED OCTOBER 17TH, 2007

TITLE VII SPECIAL ORDINANCES

CHAPTER 2 ELECTRIC ENERGY FRANCHISE

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF HENDERSON, IOWA, AN ELECTRIC SYSTEM AND COMMUNICATIONS FACILITIES AND TO FURNISH AND SELL ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council and the City of Henderson, Iowa:

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company") and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Henderson, Iowa, hereinafter called the "City", a system for the transmission and distribution of electric energy and communications signals along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to the City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2007, or as subsequently amended or changed.

Section 3. Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning of trees shall be done to current nationally accepted safety and utility industry standards.

Section 4. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has reasonable alternative route of the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route, or construction method. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities or by using a different method to perform the street and/or curbing construction, and said other cost of construction or relocation is less than the Company's, the City shall consider but is not required to select route or method that is less expensive. The Company will notify the City if project funds from a source other

than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 5. In making excavations in any street, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

Section 6. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officer, employees or agents.

Section 7. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

Section 8. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

Section 9. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 10. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council this ordinance shall be void and of no effect.

Section 11. Upon the effective date of this ordinance, all prior electric franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict are also hereby repealed.

PASSED AND APPROVED OCTOBER 17TH, 2007