

City of Holy Cross

Code of Ordinances

Prepared by:

East Central Intergovernmental Association
3999 Pennsylvania Avenue, Suite 200
Dubuque, Iowa 52002

Brian Maiers, Mayor
Donna Sweeney, City Clerk-Treasurer

Council
Jim Behnke
Mark Goedert
Dick Jasper
Ed Errthum
Paul Ross

HISTORY OF THE CITY OF HOLY CROSS

In the year 1840 nine or ten young men from Ireland came to the United States in search of a location for their families. They traveled around this part of Iowa and in Wisconsin, finally deciding to locate in the vicinity about one mile east of Holy Cross. John Sweeney, one of the parties, went back to Ireland and returned in 1841 with his own family consisting of his wife, father-James, mother, seven brothers and two sisters. In the party were John McQuillen and family, and Richard Nichols and family. They remained in New Orleans over the winter and came to Dubuque in the spring of 1842. The Sweeney's were the first of the parties to arrive near Holy Cross on March 14, 1842. The other families followed shortly thereafter and all located in the vicinity of Holy Cross on land for the taking. A few years later the land was sold by the Government and the settlers were allowed to preempt one quarter of a section each on the payment of a small fee to the United States Land Office at Dubuque at \$1.25 per acre.

The Cooney's secured a strip of land extending from the rock bridge west of Holy Cross to New Vienna, and the Sweeney's land extending from Holy Cross to North Buena Vista.

There was established by these Irish young men in 1840 a small settlement about 1 mile east of now Holy Cross and at first was called Pin Oak and later George Town. It had a post office and was a stopping place for the stage coaches. The vicinity at that time was inhabited only by savages and a solitude travelside by numerous herd of deer and roebucks.

Bishop Loras in the year 1842 secured 40 acres from the United States Government which is the present location of the Holy Cross Church. Bishop Loras was the first Priest at Holy Cross and after he acquired the 40 acres in the year 1846 he erected a large Cross on same and blessed it. The settlers would gather around this Cross to say the rosary and other prayers of the Church. The present Church Cemetery grew around this Cross. The Cross is no longer in existence but a blue spruce stands on this place today.

Later the early settlers changed their settlement next to the church real estate and the name of their settlement from George Town to Holy Cross to commemorate the Cross that the Bishop had blessed on the church's 40 acres.

On October 3, 1898 at an election at the house of John Crippes, Sr. in the Town of Holy Cross, Dubuque County, Iowa there were 23 ballots cast and no ballots against to incorporate the Town of Holy Cross and the election of the following officers to wit:

John Crippes, Mayor

J.P. Sweeney, Clerk
William Koeller, Councilman
Frank Norsges, Councilman
H. Foxen, Councilman

Michael Clemens, Treasurer
W. Arensdorf, Councilman
P.J. Maiers, Councilman
Charles Brady, Councilman

The following real estate was included in the corporation to-wit:

Lots 1 to 28, both inclusive, (with abutting streets and alleys) of the village of George Town, according to the recorded plat thereof in the County Recorder's office of Dubuque County, Iowa; the South 5-84.100 acres of Lot 3 of the Subdivision of the SE 1-4 Section 18; the NE 1-4 of the NE 1-4, and the East 10 acres of the SE 1/4 of the NE 1/4, Section 19; Lot 1 of 1; Lot 2 of 2 of 2 of 1, Lot 2 of 1 of 2 of 2 of 1; Lot 1 of 1 of 2 of 2 of 1; Lot 2 of 1 of 2 of 1; Lot 3 of 1 of 2 of 1; Lot 2 of 1 of 1 of 1 of 1 of 1 of 2 of 1; Lot 2 of 1 of 1 of 2 of 1; Lot 2 of 1 of 1 of 1 of 2 of 1; Lot 2 of 1 of 1 of 1 of 1 of 2 of 1; Lot 3 of 2; and Lot 2 of 2 of the Subdivision of the NW 1/4 Section 20; together with all streets and alleys, according to plat thereof.

Voters voting to-wit:

John Crippes
M. Clemens
John Schaul
M. Errthum
P.J. Schilz
H. Foxen
J.P. Sweeney
Wm. Koeller
Chas. Brady
Theo. Reuter
C. Hetzler
Theo Schmitt

Peter Schmitt
Theo Konzen
W. Arensdorff
F. Taylor
T.J. McCarty
Frank Nosges
John Singer
D. Hildman
J.B. Mayer, Jr.
Nicholas Krier
P. J. Maiers

On October 10, 1898 the District Court of Iowa Dubuque County duly approved the incorporation of the Town of Holy Cross, Dubuque County, Iowa and of the parties elected as officers of the Town.

CITY OFFICIALS

Unable to secure records or information of Town officers from 1898 to 1930.

1930 - Mayor: John Pfeiler
Clerk: Michael Clemen

1931 - Mayor: John Pfeiler
Clerk: Michael Clemen

1932 - Mayor: John Pfeiler
Clerk: Michael Clemen

1933 - Mayor: John Pfeiler
Clerk: Michael Clemen

1934 - Mayor: John Pfeiler
Clerk: Michael Clemen

1935 - Mayor: John Pfeiler
Clerk: Michael Clemen

1936 - Mayor: John Pfeiler
Clerk: Michael Clemen

1937 - Mayor: John Pfeiler
Clerk: Michael Clemen

1938 - Mayor: John Pfeiler
Clerk: Michael Clemen

1939 - Mayor: John Pfeiler
Clerk: Michael Clemen

1940 - Mayor: John Pfeiler
Clerk: Michael Clemen

1941 - Mayor: John Pfeiler
Clerk: Michael Clemen

1942 - Mayor: John Pfeiler
Clerk: Michael Clemen

1943 - Mayor: J.J. Maiers
Clerk: Michael Clemen

1944 - Mayor: J.J. Maiers
Clerk: Michael Clemen

1945 - Mayor: J.J. Maiers
Clerk: Michael Clemen

1946 - Mayor: J.J. Maiers
Clerk: Michael Clemen

1947 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1948 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1949 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1950 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1951 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1952 - Mayor: Leo P. Brecht
Clerk: Michael Clemen

1953 - Mayor: Leo P. Brecht
Clerk: Clarence Maiers

1954 - Mayor: Leo P. Brecht
Clerk: Clarence Maiers

1955 - Mayor: Leo P. Brecht
Council: Al Heiring
Emmett Maiers
Emil Schmitt
Charles Maiers
M.J. Friedman
Clerk: Clarence Maiers
Treasurer: Clarence Lucas

1956 - Mayor: Leo P. Brecht
Council: Al Heiring
Emmett Maiers
Emil Schmitt
Charles Maiers
M.J. Friedman
Clerk: Clarence Maiers
Treasurer: Clarence Lucas

1957 - Mayor:	Leo P. Brecht	1962 - Mayor:	Leo P. Brecht
Council:	Al Heiring Emmett Maiers Emil Schmitt Charles Maiers M.J. Friedman	Council:	Charles J. Maiers Emmett Maiers Al Heiring Emil Schmitt I.J. Klaren
Clerk:	Clarence Maiers	Clerk:	Gary A. Ross
Treasurer:	Donald Heiring	Treasurer:	Donald Heiring
1958 - Mayor:	Leo P. Brecht	1963 - Mayor:	I.J. Klaren
Council:	Al Heiring Emmett Maiers Emil Schmitt Charles Maiers M.J. Friedman	Council:	Emmett Maiers Louis Hayes Emil Schmitt Charles Maiers F.J. Brecht
Clerk:	Clarence Maiers	Clerk:	Gary A. Ross
Treasurer:	Donald Heiring	Treasurer:	Donald Heiring
1959 - Mayor:	Leo P. Brecht	1964 - Mayor:	I.J. Klaren
Council:	Al Heiring Emmett Maiers Emil Schmitt Charles Maiers M.J. Friedman	Council:	Emmett Maiers Louis Hayes Emil Schmitt Charles Maiers F.J. Brecht
Clerk:	Clarence Maiers	Clerk:	Gary A. Ross
Treasurer:	Donald Heiring	Treasurer:	Melvin Brecht
1960 - Mayor:	Leo P. Brecht	1965 - Mayor:	I.J. Klaren
Council:	Charles J. Maiers Emmett Maiers Al Heiring Emil Schmitt I.J. Klaren	Council:	Emmett Maiers Louis Hayes Emil Schmitt Charles Maiers F.J. Brecht
Clerk:	Gary A. Ross	Clerk:	Gary A. Ross
Treasurer:	Donald Heiring	Treasurer:	Leo Rusch
1961 - Mayor:	Leo P. Brecht	1966 - Mayor:	I.J. Klaren
Council:	Charles J. Maiers Emmett Maiers Al Heiring Emil Schmitt I.J. Klaren	Council:	Emmett Maiers Louis Hayes Emil Schmitt Duane Ross F.J. Brecht
Clerk:	Gary A. Ross	Clerk:	Gary A. Ross
Treasurer:	Donald Heiring	Treasurer:	Leo Rusch

1967 - Mayor: I.J. Klaren
Council: Emmett Maiers
L.P. Hayes
Melvin Brecht
Duane Ross
F.J. Brecht
Clerk: David C. Lake
Treasurer: Leo Rusch

1968 - Mayor: I.J. Klaren
Council: Emmett Maiers
L.P. Hayes
Melvin Brecht
Vincent Maiers
F.J. Brecht
Clerk: Cletus Osterhaus
Treasurer: Leo Rusch

1969 Mayor: I.J. Klaren
Council: Willis Wagner
L.P. Hayes
Melvin Brecht
F.J. Brecht
Vincent Maiers
Clerk: Cletus Osterhaus
Treasurer: Leo Rusch

1970 - Mayor: I.J. Klaren
Council: Willis Wagner
L.P. Hayes
Melvin Brecht
F.J. Brecht
Vincent Maiers
Clerk: Cletus Osterhaus
Treasurer: Leo Rusch

1971 - Mayor: I.J. Klaren
Council: David Schultz
Willis Wagner
Melvin Brecht
Vincent Maiers
Clerk: Cletus Osterhaus
Treasurer: Leo Rusch

1972 - Mayor: Leo P. Rusch
Council: David Schultz
Willis Wagner
F.J. Brecht
Melvin Brecht
Vincent Maiers
Clerk: Cletus Osterhaus
Treasurer: Darlene Rusch

1973 - Mayor: Leo P. Rusch
Council: David Lake
David Schultz
Roger Sweeney
Willis Wagner
Melvin Brecht
Clerk: Cletus Osterhaus
Treasurer: Darlene Rusch

1974 - Mayor: Leo Rusch
Council: David Lake
David Schultz
Roger Sweeney
Willis Wagner
Melvin Brecht
Clerk: Cletus Osterhaus
Treasurer: Darlene Rusch

1975 - Mayor: Leo Rusch
Council: David Lake
David Schultz
Roger Sweeney
Willis Wagner
Melvin Brecht
Clerk: Darlene Rusch
Treasurer: Darlene Rusch

1976 - Mayor: Leo Rusch
Council: David Lake
David Schultz
Roger Sweeney
John Friedman
Melvin Brecht
Clerk: Darlene Rusch
Treasurer: Darlene Rusch

1977 - Mayor: Leo Rusch
Council: Dave Schultz
John Friedman
Roger Sweeney
Melvin Brecht
Dave Lake
Clerk-Treasurer: Darlene Rusch

1978 - Mayor: Leo Rusch
Council: Melvin Brecht
Ed Errthum
Dave Lake
John Friedman
Bill Juran
Clerk-Treasurer: Darlene Rusch

1979 - Mayor: Leo Rusch
Council: Dave Lake
Ed Errthum
Melvin Brecht
John Friedman
Bill Juran
Clerk-Treasurer: Darlene Rusch

1980 - Mayor: Leo Rusch
Council: Loras Borgerding
Ed Errthum
Dave Lake
Bob Hildebrand
DeWayne Rahe
Clerk-Treasurer: Darlene Rusch

1981 - Mayor: Leo Rusch
Council: Loras Borgerding
DeWayne Rahe
Bernard Maiers
Ed Errthum
Dave Lake
Clerk-Treasurer: Darlene Rusch

1982 - Mayor: Gary A. Ross
Council: Dave Lake
DeWayne Rahe
Bernard Maiers
Loras Borgerding
Ed Errthum
Clerk-Treasurer: Darlene Rusch

1983 - Mayor: Gary Ross
Council: DeWayne Rahe
Dave Lake
Bernard Maiers
Ed Errthum
Loras Borgerding
Clerk-Treasurer: Darlene Rusch

1984 - Mayor: Gary A. Ross
Council: Ed Errthum
Loras Borgerding
Bernard Maiers
Ron Schultz
Dave Lake
Clerk-Treasurer: Darlene Rusch

1985 - Mayor: Gary A. Ross
Council: Dave Lake
Ron Schultz
Ed Errthum
Bernard Maiers
Loras Borgerding
Clerk-Treasurer: Darlene Rusch

1986 - Mayor: Ed Errthum/Bernard
Maiers
Council: Bob Hayes
Ron Schultz
Loras Borgerding
Dave Lake
Clerk: Donna Sweeney
Treasurer: Ann Hogan

1987 - Mayor: Ed Errthum
Council: Dave Lake
Loras Borgerding
Ron Schultz
Bob Hayes
Bernard Maiers
Clerk: Donna Sweeney
Treasurer: Ann Hogan/Joan Wilwert

1988 - Mayor: Ed Errthum
Council: Dave Lake
Ron Schultz
Bob Hayes
Gary A. Ross
Del Brecht
Clerk: Donna Sweeney
Treasurer: Joan Wilwert

1989 - Mayor: Ed Errthum
Council: Dave Lake
Ron Schultz
Bob Hayes
Gary A. Ross
Del Brecht
Clerk: Donna Sweeney
Treasurer: Joan Wilwert

1990 - Mayor: Ed Errthum
Council: Dave Lake
Ron Schultz
Bob Hayes
Gary A. Ross
Del Brecht
Clerk: Donna Sweeney
Treasurer: Joan Wilwert

1991 - Mayor: Ed Errthum
Council: Dave Lake
Bob Hayes
Ron Schultz
Gary A. Ross
Delbrecht Brecht
Clerk: Donna Sweeney
Treasurer: Joan Wilwert

1992 - Mayor: Ed Errthum resigned July 1992
Delbert Brecht appointed Sept., 1992
Council: Dave Lake
Bob Hayes
Jerry Behnke
Bill Niehaus
Paul Ross
Clerk-Treasurer: Donna Sweeney

1993 - Mayor: Delbert Brecht
Council: Dave Lake
Bob Hayes
Jerry Behnke
Bill Niehaus
Paul Ross
Clerk/Treasurer: Donna Sweeney

1994 - Mayor: Delbert Brecht
Council: Dave Lake
Bob Hayes
Mark Goedert
Paul Ross
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

1995 - Mayor: Delbert Brecht
Council: Dave Lake
Bob Hayes
Mark Goedert
Paul Ross
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

1996 - Mayor: Delbert Brecht
Council: Dave Lake
Bob Hayes
Mark Goedert
Paul Ross
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

1997 - Mayor: Delbert Brecht
Council: Dave Lake
Bob Hayes
Mark Goedert
Paul Ross
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

1998-Mayor: Mark Goedert
Council: Dave Lake
Paul Ross
Bill Niehaus
Brian Maiers
Jim Behnke
Clerk-Treasurer: Donna Sweeney

1999-Mayor: Mark Goedert
Council: Dave Lake
Paul Ross
Bill Niehaus
Brian Maiers
Jim Behnke
Clerk-Treasurer: Donna Sweeney

2000-Mayor: Brian Maiers
Council: Jim Behnke
Brian Maiers
Paul Ross
Ed Errthum
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

2001-Mayor: Brian Maiers
Council: Jim Behnke
Brian Maiers
Paul Ross
Ed Errthum
Bill Niehaus
Clerk-Treasurer: Donna Sweeney

2002 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

2003 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

2004 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

2005 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

2006 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

2007 -Mayor: Brian Maiers
Council: Jim Behnke
Mark Goedert
Dick Jasper
Paul Ross
Ed Errthum
Clerk-Treasurer: Donna Sweeney

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TITLE I GENERAL PROVISIONS

CHAPTER 1 GENERAL PROVISIONS

1-1-1	Definitions	1-1-4	Construction
1-1-2	Grammatical Interpretation	1-1-5	Amendment
1-1-3	Prohibited Acts Include Causing, Permitting	1-1-6	Severability

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

1. “City” means the City of Holy Cross, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
2. “Clerk” means Clerk-Treasurer.
3. “Computation of time” means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
4. “Council” means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
5. “County” means the County of Dubuque, Iowa;
6. “Fiscal Year” means July 1 to June 30.
7. “Law” denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
8. “May” confers a power;
9. “Month” means a calendar month;
10. “Must” states a requirement;
11. “Oath” shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” shall be equivalent to the words “swear” and “sworn”;
12. “Or” may be read “and” and “and” may be read “or” if the sense requires it;
13. “Ordinance” means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;

14. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
15. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
16. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
17. "Preceding" and "following" mean next before and next after, respectively;
18. "Property" includes real and personal property;
19. "Real property" includes any interest in land;
20. "Shall" imposes a duty;
21. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
22. "State" means the State of Iowa;
23. "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;
24. "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;
25. "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;
26. "Writing" and "Written" includes printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
27. "Year" means a calendar year;
28. 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;
29. 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 Holy Cross Municipal Code of 2007 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.

TITLE I GENERAL PROVISIONS

CHAPTER 2 RIGHT OF ENTRY

1-2-1 Right of Entry

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

TITLE I GENERAL PROVISIONS

CHAPTER 3 PENALTY

1-3-1 General Penalty

1-3-2 Civil Penalty - Municipal Infraction

1-3-1 GENERAL PENALTY. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of Holy Cross is guilty of a misdemeanor. Any person convicted of a misdemeanor under the Ordinances of Holy Cross shall be punished by a fine of not more than Six Hundred Twenty-Five Dollars (\$625.00), or by imprisonment not to exceed thirty days.

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

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

1. Definitions.

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

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 five hundred dollars (\$500.00).

Second Offense—Not more than seven hundred fifty dollars (\$750.00).

All other repeat offenses—Not more than one thousand dollars (\$1,000.00).

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

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

3. Civil Citations

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

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

c. The original of the citation shall be sent to the Clerk of the district court.

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

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

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 _____ City Council at _____ on the _____ day of _____, 20____, at the hour _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk.”

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that

the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.
3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.
6. Rights of parties. Each party shall have these rights, among others:
 - a. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - b. To introduce documentary and physical evidence;
 - c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - d. To impeach any witness regardless of which party first called the witness to testify;
 - e. To rebut the evidence against the party; and
 - f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.
7. Official notice.
 - a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.
 - b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
 - c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.
8. Inspection of the premises. The City Council may inspect any building or premises involved in the

appeal during the course of the hearing, provided that:

- a. Notice of such inspection shall be given to the parties before the inspection is made;
- b. The parties are given an opportunity to be present during the inspection; and
- c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 1 CITY CHARTER

2-1-1	Purpose	2-1-6	Term of Mayor
2-1-2	Charter	2-1-7	Copies on File
2-1-3	Form of Government	2-1-8	When Effective
2-1-4	Powers and Duties		
2-1-5	Number and Term of City Council		

2-1-1 PURPOSE. The purpose of this ordinance is to provide for a charter embodying the form of government existing on July 1, 1975.

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

2-1-3 FORM OF GOVERNMENT. The form of government of the City of Holy Cross, Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-4 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 Holy Cross, Iowa.

2-1-5 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for terms of four years except that in the year 1977 the two council members receiving the highest number of votes shall be elected for a term of four years; the other three (3) council members for a term of two years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 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)

2-1-7 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)

2-1-8 WHEN EFFECTIVE. This ordinance is in effect after its final passage, approval and publication as required by law. Passed by the Council the 5th day of July, 1975, and approved this 5th day of July, 1975.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

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

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

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

The City Council shall appoint the Clerk-Treasurer.

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

2-3-1	General Duties	2-3-5	Powers and Duties of the Mayor
2-3-2	Books and Records	2-3-6	Powers and Duties of the Clerk
2-3-3	Deposits of Municipal Funds	2-3-7	Powers and Duties of the City Attorney
2-3-4	Transfer of Records and Property To Successor		

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

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

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

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

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

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may sign, veto, or take no action on an Ordinance, amendment or resolution passed by the City Council. If the Mayor vetoes a measure, the Mayor must explain in writing the reason for such veto to the City Council members, if said action is taken within thirty days of the veto. 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. The City Council may repass a measure over the Mayor's veto by a two-thirds majority of the City Council members, if said action is taken within thirty days of the veto.

(Code of Iowa, Sec. 380.5 and 380.6(2))

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 approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

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

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

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

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

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

1. The Clerk-Treasurer shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

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

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

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

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

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

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

5. The Clerk-Treasurer 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-Treasurer 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-Treasurer shall be the chief accounting officer of the City.

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

(Code of Iowa, Sec. 384.20)

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

23. The Clerk-Treasurer shall show on every warrant/check the fund on which it is drawn and the claim

to be paid.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

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

31. The Clerk-Treasurer 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))

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

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

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

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

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

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.
5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.
6. The City Attorney shall act as Attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or City Council.
7. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.
8. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.
10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

2-4-1 Council Member

2-4-3 Mayor Pro Tem

2-4-2 Mayor

2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$18.00 for each meeting of the City Council.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$175.00 to be paid in equal monthly installments.

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

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 5 CITY FINANCE

2-5-1	Budget Adoption	2-5-7	Administrative Transfers
2-5-2	Budget Amendment	2-5-8	Budget Officer
2-5-3	Budget Protest	2-5-9	Accounting
2-5-4	Accounts and Programs	2-5-10	Budget Accounts
2-5-5	Annual Report	2-5-11	Contingency Accounts
2-5-6	Council Transfers		

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

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

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

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

2. Not less than ten nor more than twenty days before the date that the budget must be certified to the County Auditor, the Clerk-Treasurer shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk-Treasurer and at the City library, if any, or at three places designated by Ordinance for posting notices.

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

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

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk-Treasurer 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 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

2-5-6 COUNCIL TRANSFERS. When the City Clerk-Treasurer determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk-Treasurer 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-Treasurer 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-Treasurer, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

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

2-5-7 ADMINISTRATIVE TRANSFERS. The City Clerk-Treasurer shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval.

The City Clerk-Treasurer shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance.

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

2-5-8 BUDGET OFFICER. The City Clerk-Treasurer 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-Treasurer 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 ACCOUNTING. The Clerk-Treasurer 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-Treasurer shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk-Treasurer and Mayor or Mayor Pro Tem.

(Code of Iowa, Sec. 384.20)

2-5-10 BUDGET ACCOUNTS. The Clerk-Treasurer 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)

2-5-11 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk-Treasurer shall set up in the accounting records but the Clerk-Treasurer 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

2-6-3 Removal Unlawful

2-6-2 Listing; Length of Notice

2-6-1 **PURPOSE.** The City of Holy Cross, Iowa has no newspaper published within the corporate limits of the City, and publications of notice of elections, Ordinances and amendments may be made by posting in three public places which have been permanently designated by Ordinance.

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

2-6-2 **LISTING, LENGTH OF NOTICE.** The three public places where public notice of Ordinances and other matters permitted to be posted are to be displayed are:

U.S. Post Office
City Council Chambers
Dubuque Bank and Trust

The City Clerk-Treasurer is hereby directed to promptly post notices of elections, Ordinances, and amendments, and to leave them so posted for not less than ten days after the first date of posting, and the City Clerk shall note the first date of such posting on the official copy of the Ordinance and in the official Ordinance book immediately following the Ordinance.

(Code of Iowa, Sec. 380.7)

2-6-3 **REMOVAL UNLAWFUL.** It shall be unlawful for any person other than the city clerk-treasurer 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 BOUNDARIES

2-7-1 Purpose

2-7-2 Boundaries

2-7-1 PURPOSE. The purpose of this ordinance is to describe the boundaries of the city of Holy Cross, Iowa.

2-7-2 BOUNDARIES. The boundaries of the city of Holy Cross, Iowa, shall be as follows, to-wit:

Beginning at the East Quarter (E 1/4) corner of Section 19; thence west 330 feet; thence north 1320 feet to the south line of NE 1/4 - NE 1/4 - Section 19; thence west 990 feet to the Southwest corner of said NE 1/4 - NE 1/4 - Section 19; thence north along the west line of said NE 1/4 - NE 1/4 - Section 19; 1320 feet to the NW corner thereof; thence continuing north 410 feet more or less to a point on the north line of Lot 1-1-1-1- Mary Heiderscheit Subdivision extended westerly; thence east 1320 feet along said line and extension thereof to the east line of Section 18; thence north along said east line to the NE corner of SE 1/4 - SE 1/4 of Section 18 thence east 588.9 to the NE corner of 2-1-1 of SW 1/4 - SW 1/4 of Section 17; thence south along the east line of said Lot 2-1-1-910 feet more or less to a point 410 feet more or less north of the south line of said Section 17; thence east to the east line of said SW 1/4 - SW 1/4; thence south 3050 feet to the SE corner of SW 1/4 - NW 1/2 Section 20, thence west 1030.13 feet along the south line of said SW 1/4 - NW 1/4 to the northeast corner of 1 NW 1/4 - SW 1/4 of said Section 20; thence south 521.09 feet to the SE corner of said Lot 1; thence west 209 feet to the SW corner of said lot; thence north 521.09 to the NW corner of said lot; thence west along the north line of said NW 1/4 - SW 1/4 to the NW corner thereof which is the point of beginning.

Also described as E 10 acres of SE 1/4 - NE 1/4 of Section 19; NE 1/4 - NE 1/4 of Section 19; S 410 feet of SE 1/4 - SE 1/4 of Section 18; West 588.9 feet - S 410 feet - East 731.1 feet of SW 1/4 - SW 1/4 of Section 17; W 1/2 of NW 1/4 of Section 20; and 1 - NW 1/4 - SW 1/4 of Section 20.

All of the above is in Concord Township 90 North Range 1 West.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 8 CITY ELECTIONS

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

2-8-1 **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.

2-8-2 **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)

2-8-3 **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)

2-8-4 **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)

2-8-5 **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)

2-8-6 **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.

2-8-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 9 PROPERTY TAX EXEMPTION

- | | | | |
|--------|--|-------|--------------------------------|
| 2-9- 1 | Scope; Applicability | 2-9-3 | Amount of Exemption |
| 2-9-2 | Application, Information to be provided; Prior approval of new construction proposals. | 2-9-4 | Duration, Repeal of Exemption. |

2-9-1 **SCOPE; APPLICABILITY.** This section provides that the City Council may provide by Ordinance enacted not less than thirty (30) days after a public hearing held in accordance with Section 362.3 of the Code of Iowa for a partial exemption from property taxation of the actual value added to the industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, and distribution centers pursuant to Section 427A. 1, Subsection 1, Paragraph e, of the Code of Iowa, conditioned as follows:

1. New construction, as referred to herein, means new buildings and structures, and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products, which determination shall receive prior approval from the City Council upon the recommendation of the Iowa Department of Economic Development.

2. Research-service facilities means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

3. Warehouse means a building or structure used as public warehouse for the storage of goods pursuant to Chapter 554, Article 7 of the Code of Iowa, except that **15** does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

4. Distribution center means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

5. A property tax exemption under this section shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

2-9-2 **APPLICATION, INFORMATION TO BE PROVIDED; PRIOR APPROVAL OF NEW CONSTRUCTION PROPOSALS.** An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February first of the assessment year in which the value added is first assessed for taxation. Applications for exemptions shall be made on forms prescribed by the director of revenue of the State of Iowa and shall contain information pertaining to the nature of the improvement, its

cost and other information deemed necessary by the said director.

A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of this section. Prior approval does not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council to approve or reject.

2-9-3 AMOUNT OF EXEMPTION. The actual value added to industrial real estate for the reasons specified in this section is eligible to receive a partial exemption from taxation for a period of five (5) years. However, if property ceases to be classified as industrial real estate or ceases to be used as a research-service facility or a warehouse or distribution center, the partial exemption for the value added shall not be allowed for subsequent assessment years. "Actual value added," as used in this section, means the actual value added as of the first of the year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, seventy-five (75) per cent.
2. For the second year, sixty (60) per cent.
3. For the third year, forty-five (45) per cent.
4. For the fourth year, thirty (30) per cent.
5. For the fifth year, fifteen (15) per cent.

However, the granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

2-9-4 DURATION, REPEAL OF EXEMPTION. The partial exemption shall be available until such time as this section is repealed by the City Council. When, in the opinion of the City Council, continuation of the exemption granted in this section ceases to be of benefit to the City, the City Council may repeal this section, but all existing exemptions shall continue until their expiration.

(Ord, 90-3, Passed October 2, 1990).

Editors' Notes: Reference to machinery and equipment was eliminated during 1997 recodification.

TITLE II POLICY AND ADMINISTRATION

CHAPTER 10 PLANNING AND ZONING COMMISSION

2-10-1 Planning and Zoning
Commission Created

2-10-2 Term of Office
2-10-3 Powers

2-10-1 **PLANNING AND ZONING COMMISSION CREATED.** There is hereby created a City Planning and Zoning Commission, composed of seven (7) residents of the City of Holy Cross, Iowa who shall be qualified by knowledge and experience to act in matters pertaining to the development of City planning and zoning, none of whom shall hold any elective position in said City. Such members shall be appointed by the City Council.

2-10-2 **TERM OF OFFICE.** The term of office of said members shall be five (5) years, except that the members first named shall hold office for such terms, not exceeding five (5) years, that the terms of not more than one-third of the members will expire in any one year. Any vacancy occurring on the commission, caused by resignation or otherwise, shall be filled by the City Council for the unexpired term. All members of such commission shall serve without compensation except their actual expenses which shall be subject to the approval of the Council.

2-10-3 **POWERS.** Such commission shall have and possess the following powers, and such other powers as may be incidental to the successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law.

1. To make such surveys, studies, maps, plans or plats of the whole or any portion of the City and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the Council with its studies and recommendations and it may publish the same.

2. To prepare a comprehensive plan regarding the height, of stories, and size of buildings and other structures; the percentage of ground that may be occupied and the size of yards, courts and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and to this end shall prepare a preliminary report and hold public meetings thereon and after such meetings have been held, to submit its final report and recommendations to the City Council.

3. To recommend to the City Council, from time to time as conditions require, amendments, supplements, changes or modification in the comprehensive plan prepared by it.

TITLE III COMMUNITY PROTECTION

CHAPTER 1 OFFENSES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-1-4 STREETS.

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

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

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

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

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

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

3-1-5 PUBLIC SAFETY AND HEALTH.

1. Expectorating. No person shall expectorate on the ground or in any structure within the City limits.
(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

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

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

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

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

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

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

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

7. Possession of Fireworks.

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

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

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

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

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law

enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

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

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 364.12)

3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

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

m. Trees infected with Dutch elm disease.

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.2)

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 657.3)

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

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

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

2. The removal, repair, or dismantling of dangerous buildings or structures.
(Code of Iowa, Sec. 364.12(3)(c))

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

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

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
(Code of Iowa, Sec. 364.12(3)(f))

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.
(Code of Iowa, Sec. 364.12(3)(g))

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

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section 3, the Mayor or officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice.
(Code of Iowa, Sec. 364.12(3)(h))

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:
(Code of Iowa, Sec. 364.12(3)(h))

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

2. The location of the nuisance or condition.

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

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

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

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor.
(Code of Iowa, Sec. 364.12(3)(h))

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

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

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.
(Code of Iowa, Sec. 364.12(3)(h))

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.
(Code of Iowa, Sec. 364.12(3)(h))

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.
(Code of Iowa, Sec. 364.12(3)(h))

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.
(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.
(Code of Iowa, Sec. 364.12A)

TITLE III COMMUNITY PROTECTION

CHAPTER 3 TRAFFIC CODE

- 3-3-1 Short Title
 - 3-3-2 Definitions
 - 3-3-3 Traffic Accident Reports
 - 3-3-4 Police Department to Submit Annual Reports
- ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS
- 3-3-5 Authority of Police and Fire Department Officials
 - 3-3-6 Required Obedience to Provisions of this Chapter and State Law
- TRAFFIC CONTROL DEVICES
- 3-3-7 Authority to Install Traffic-Control Devices
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3-3-1 SHORT TITLE. This chapter may be known and cited as the “Traffic Code”.

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

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

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

3. “Stop”, when required means complete cessation of movement.

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

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

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

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

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

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

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

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

- 321.98 Operation without registration.
- 321.180 Violations of instruction permit limitations.
- 321.193 Violation of conditions of restricted license.
- 321.194 Violation of conditions of minor’s school license.
- 321.216 Unlawful use of license.
- 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
- 321.219 Permitting unauthorized minor to drive.
- 321.220 Permitting unauthorized person to drive.

- 321.229 Failure to comply with lawful order of peace officer.
- 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
- 321.232 Radar jamming devices.
- 321.234 Failure to observe seating requirements.
- 321.236 (Parking) Violation of local ordinance (not a state offense).
- 321.256 Failure to obey traffic control device.
- 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
- 321.260 Unlawful possession of, or interference with traffic control device.
- 321.264 Striking unattended vehicle.
- 321.265 Striking fixtures upon a highway.
- 321.275 Motorcycle and motorized bicycles violations.
- 321.277 Reckless driving.
- 321.278 Drag racing prohibited.
- 321.285 Speed restrictions.
- 321.286 Truck speed limits (highway).
- 321.287 Bus speed limits (highway).
- 321.288 Failure to maintain control.
- 321.294 Failure to maintain minimum speed when directed by officer.
- 321.295 Excessive speed on bridge.
- 321.297 Driving on wrong side of two-way highway.
- 321.298 Failure to yield half of roadway upon meeting vehicle.
- 321.299 Passing on wrong side.
- 321.303 Unsafe passing.
- 321.304 Unlawful passing.
- 321.305 Violating one-way traffic designation.
- 321.306 Improper use of lanes.
- 321.307 Following too closely.
- 321.308 Following too closely (trucks and towing vehicles).
- 321.309 Failure to use approved drawbar.
- 321.310 Unlawful towing of four-wheeled trailer.
- 321.311 Turning from improper lane.
- 321.312 Making U-turn on curve or hill.
- 321.313 Unsafe starting of a stopped vehicle.
- 321.314 Unsafe turn or failure to give signal.
- 321.315 Failure to give continuous turn signal.
- 321.316 Failure to signal stop or rapid deceleration.
- 321.317 Signal light requirements; see equipment violation.
- 321.318 Incorrect hand signal.
- 321.319 Failure to yield to vehicle on right.
- 321.320 Failure to yield upon left turn.
- 321.321 Failure to yield upon entering through highway.
- 321.322 Failure to obey stop or yield sign.
- 321.323 Unsafe backing on highway.
- 321.324 Failure to yield to emergency vehicle.
- 321.325 Pedestrian disobeying traffic control signal.
- 321.326 Pedestrian walking on wrong side of highway.
- 321.327 Pedestrian right-of-way.
- 321.328 Pedestrian failing to use crosswalk.
- 321.329 Vehicle failing to yield to pedestrian.

- 321.331 Soliciting ride from within roadway.
- 321.332 Unlawful use of white cane.
- 321.333 Failure to yield to blind person.
- 321.340 Driving in or through safety zone.
- 321.341 Failure to properly stop at railroad crossing.
- 321.342 Failure to obey stop sign at railroad crossing.
- 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
- 321.344 Unlawful movement of construction equipment across railroad track.
- 321.353 Unsafe entry into sidewalk or roadway.
- 321.354 Stopping on traveled part of highway.
- 321.358 Stopping, standing, or parking where prohibited.
- 321.360 Prohibited parking in front of certain buildings.
- 321.361 Parking too far from curb/angular parking.
- 321.362 Parking without stopping engine and setting brake.
- 321.363 Driving with obstructed view or control.
- 321.365 Coasting upon downgrade.
- 321.366 Improper use of median, curb, or controlled access facility.
- 321.367 Failure to maintain distance fire-fighting vehicle.
- 321.368 Crossing unprotected fire hose.
- 321.369 Putting debris on highway/roadway.
- 321.370 Removing injurious material.
- 321.371 Clearing up wrecks.
- 321.372 School bus provisions.
- 321.377 Excessive speed of school bus.
- 321.381 Driving or towing unsafe vehicle.
- 321.382 Operating underpowered vehicle.
- 321.383 Failure to display reflective device on slow-moving vehicles.
- 321.384 Failure to use headlamps when required.
- 321.385 Insufficient number of headlamps.
- 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
- 321.387 Improper rear lamp.
- 321.388 Improper registration plate lamp.
- 321.389 Improper rear reflector.
- 321.390 Reflector requirements.
- 321.391 Improper type of reflector.
- 321.392 Improper clearance lighting on truck or trailer.
- 321.393 Lighting device color and mounting.
- 321.394 No lamp or flag on rear-projecting load.
- 321.395 Parking on certain roadways without parking lights.
- 321.397 Improper light on bicycle.
- 321.398 Improper light on other vehicle.
- 321.402 Improper use of spotlight.
- 321.403 Improper use of auxiliary driving lights.
- 321.404 Improper brake light.
- 321.408 Back-up lamps.
- 321.409 Improperly adjusted headlamps.
- 321.415 Failure to dim.
- 321.419 Improper headlighting when night driving.
- 321.420 Excessive number of driving lights.
- 321.422 Lights of improper color-front or rear.

- 321.423 Special light/signal provision.
- 321.430 Defective braking equipment.
- 321.431 Brake performance ability.
- 321.432 Defective audible warning device.
- 321.433 Unauthorized use of emergency audible warning devices on motor vehicle.
- 321.434 Use of siren or whistle on bicycle.
- 321.436 Defective or unauthorized muffler system.
- 321.437 Mirrors.
- 321.438 Windshields.
- 321.439 Defective windshield wiper.
- 321.440 Defective tires.
- 321.441 Unauthorized use of metal tire or track.
- 321.442 Unauthorized use of metal projection on wheels.
- 321.444 Failure to use safety glass.
- 321.445 Failure to maintain or use safety belts.
- 321.446 Failure to secure child.
- 321.449 Special regulations.
- 321.450 Hazardous materials.
- 321.454 Width and length violations.
- 321.455 Excessive side projection of load – passenger vehicle.
- 321.456 Excessive height.
- 321.457 Excessive length.
- 321.458 Excessive projection from front of vehicle.
- 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 321.460 Spilling loads on highways.
- 321.461 Excessive tow-bar length.
- 321.462 Failure to use required towing equipment.
- 321.463 Maximum gross weight.
- 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

TRAFFIC CONTROL DEVICES

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

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

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

(Code of Iowa, Sec. 321.255 and 321.256)

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

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

the street or roadway, and at such other places as traffic conditions require.

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

3-3-9 PLAY STREETS. The 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: none
2. Lower speed limit: none

(Code of Iowa, Sec. 321.290)

TURNING MOVEMENTS

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

(Code of Iowa, Sec. 321.311)

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

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

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

ONE-WAY STREETS AND ALLEYS

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

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

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

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

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

SPECIAL STOPS REQUIRED

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

(Code of Iowa, Sec. 321.345 and 321.350)

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

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

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

3-3-22 **SCHOOL STOPS.** When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized

school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.

PEDESTRIANS' RIGHTS AND DUTIES

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

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.326)

METHOD OF PARKING

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

3-3-28 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings.

STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

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

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.

3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.

3-3-30 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause 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. The City Council is authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the Sheriff’s Department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the

person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

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

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

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

STOPPING, STANDING OR PARKING

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

(Code of Iowa, Sec. 321.236)

3-3-33 **PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. 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 Chief of Police is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, Sec. 321.236)

3-3-33a **DUMPING OF SNOW** It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles up on the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

(Ord. 07-1, Passed July 2, 2007)

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. Commercial trucks weighing eight tons or more, loaded or empty, shall not be parked, except for loading or unloading on any residential street in the corporate limits of the city of Holy Cross, Iowa. Commercial truck parking will be allowed on commercial streets only as outlined on attached map at the end of this chapter (Exhibit A) for no longer than a twelve (12) hour period. Streets for the purpose of this ordinance shall mean any street in the city of Holy Cross.

1. Flammable Substances. Commercial vehicles which transport detonable materials or flammable solids, liquids, or gases shall not be parked on any street in the city limits of Holy Cross, Iowa except for the purpose of making local deliveries.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or driveway of any service station between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds, and then in no event for more than thirty (30) minutes.

(Ord. 05-2, Passed December 6, 2005)

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

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

No streets designated.

3-3-43 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:

Main Street, Church Street, Maple Road, Thunder Road, Sunshine Street

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.

3-3-44 VEHICULAR NOISE.

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

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

3-3-45 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the 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

3-3-46 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 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.

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 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.

ALL-TERRAIN VEHICLES

3-3-62 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

3-3-63 DEFINITIONS. For use in this Chapter the following term is defined:

1. “All-terrain vehicle” or “ATV” shall mean a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

3-3-64 GENERAL REGULATIONS. No person shall operate an ATV 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.

1. Streets. ATV’s may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the City Council for the sport of driving

ATV's.

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

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other property owned by the City without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

GOLF CARTS

3-3-65 DEFINITIONS. For use in this ordinance "golf cart" is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-66 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver's license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

PENALTIES AND PROCEDURE ON ARREST

3-3-67 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk's office as provided therein.

3-3-68 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

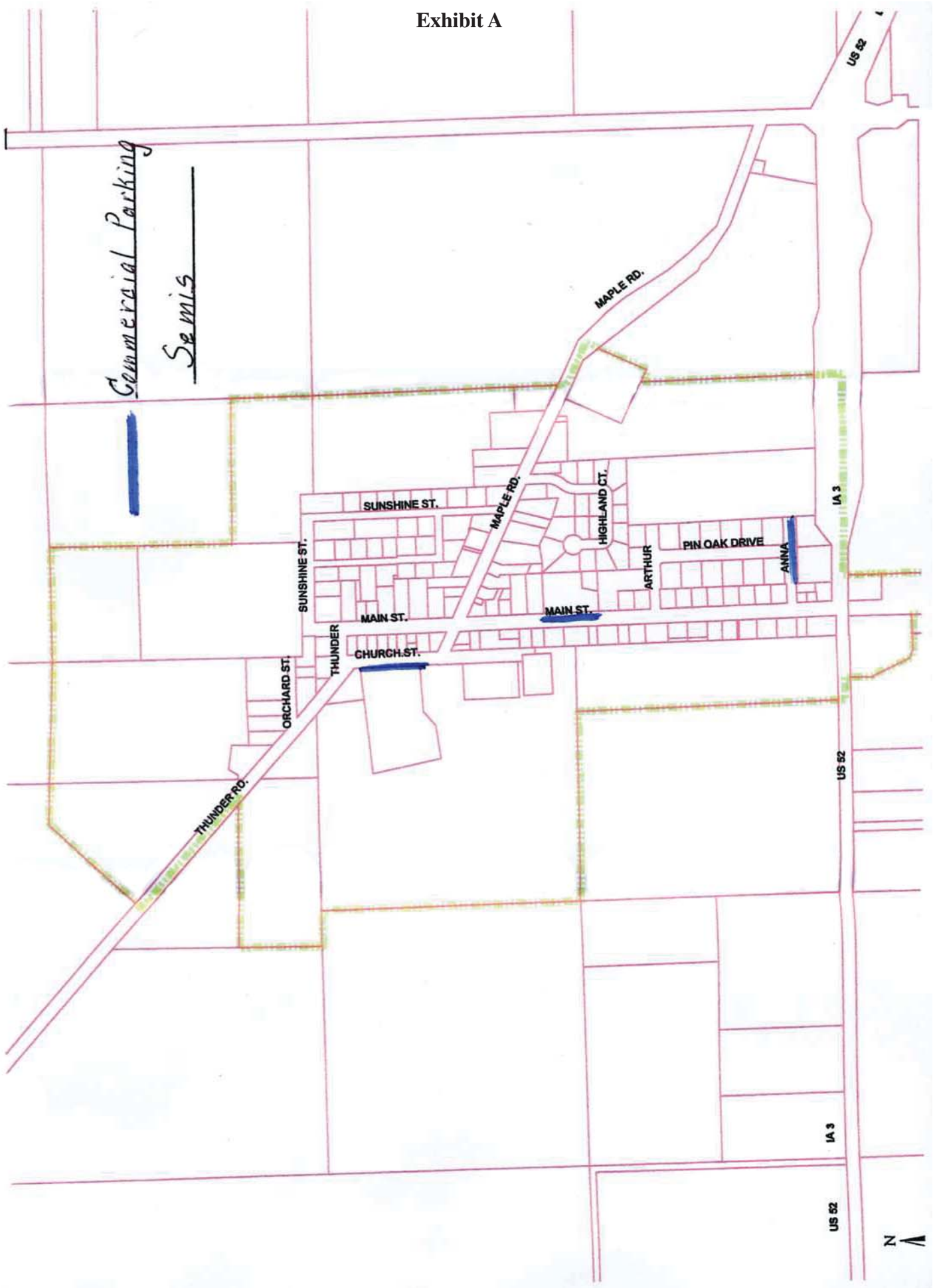
3-3-69 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

- | | |
|-----------------------|----------|
| 1. Prohibited parking | \$100.00 |
| 2. No parking zone | \$100.00 |
| 3. Blocking alley | \$100.00 |
| 4. Illegal parking | \$100.00 |
| 5. Street cleaning | \$100.00 |
| 6. Snow removal ban | \$100.00 |
| 7. Handicap parking | \$100.00 |

(Ord. 05-2, Passed December 6, 2005)

3-3-70 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

Exhibit A



TITLE III COMMUNITY PROTECTION

CHAPTER 4 FIRE PROTECTION

3-4-1	Establishment and Purpose	3-4-4	Worker's Compensation and Hospitalization Insurance
3-4-2	Volunteer Fire Fighters	3-4-5	Liability Insurance
3-4-3	Fire Fighter's Duties		

3-4-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

3-4-2 VOLUNTEER FIRE FIGHTERS. Residents in the Holy Cross, Iowa, fire fighting district, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter.

(Code of Iowa, Sec. 362.10)

3-4-3 FIRE FIGHTER'S DUTIES. When called by the Fire Chief, all fire fighters shall report for duty immediately in the manner directed by the Fire Chief. All fire fighters shall be subject to call at any time. They shall obey strictly the commands of any other fire fighter who has been appointed by the Fire Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Fire Chief.

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

3-4-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-4-5 LIABILITY INSURANCE. The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

TITLE III COMMUNITY PROTECTION

CHAPTER 5 CURFEW FOR MINORS

3-5-1	Preamble	3-5-4	Offenses
3-5-2	Findings and Purpose	3-5-5	Defenses
3-5-3	Definitions	3-5-6	Enforcement

3-5-1 PREAMBLE. The City of Holy Cross 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)

3-5-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Holy Cross; and

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

The City of Holy Cross 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.

3-5-3 DEFINITIONS. In this chapter:

1. Curfew hours means 12:01 a.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
4. Guardian means:
 - a. A person who, under court order, is the guardian of the person of a minor; or
 - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

7. Parent means a person who is:
 - a. A biological parent, adoptive parent, or step-parent of another person; or
 - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

9. Remain means to:
 - a. Linger or stay; or
 - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

3-5-4 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.

3-5-5 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 Holy Cross, 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 Holy Cross, a civic organization, or another similar entity that takes responsibility for the minor;

h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-5-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

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

“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 6 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

3-6-1 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.

3-6-2 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.

3-6-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk-Treasurer a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than sixty days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.
(Code of Iowa, Sec. 9C.2)

3-6-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk-Treasurer an application in writing that gives the following information:

1. Name and social security number.

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

3-6-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-6-6 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.

3-6-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

3-6-8 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.

3-6-9 DISPLAY OF PERMIT. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

3-6-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-6-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of

conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

TITLE III COMMUNITY PROTECTION

CHAPTER 7 CIGARETTE LICENSE

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

3-7-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

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

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

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

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

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

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

3-7-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Holy Cross, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-7-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk-Treasurer a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

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

3-7-4 EXPIRATION. Permits expire on June 30 of each year.

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

3-7-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

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

3-7-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for

\$18.75.

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

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

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

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

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

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

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

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

f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 2B 4 against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

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

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

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

3-7-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3-7-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

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

TITLE III COMMUNITY PROTECTION

CHAPTER 8 ALCOHOLIC BEVERAGES

3-8-1 Purpose	3-8-3 Action by Council
3-8-2 Required Obedience to Provisions of this Chapter and State Law	3-8-4 Transfers

3-8-1 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)

3-8-2 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

3-8-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

(Code of Iowa, Sec. 123.32(2))

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

3-10-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-10-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. “Abandoned vehicle” means any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or

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

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or

d. A vehicle that has been legally impounded by order of the Sheriff and has not been reclaimed for a period of ten days; or

e. Any vehicle parked on the street determined by the City Council 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 vehicle which contains gasoline or any other flammable fuel.
- e. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
- f. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The City Council may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The City Council may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Sheriff's Department shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

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

3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the City Clerk-Treasurer, 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 City 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 City Clerk-Treasurer 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 Sheriff's Department 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 Sheriff 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 Holy Cross, 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 Council shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the City Clerk-Treasurer 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-Treasurer 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-Treasurer shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-10-12 EXCEPTIONS. This chapter shall not apply to the following:

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

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

TITLE III COMMUNITY PROTECTION

CHAPTER 11 HAZARDOUS WASTES AND SUBSTANCES

3-11-1 Purpose

3-11-2 Definitions

3-11-3 Cleanup Required

3-11-4 Liability for Cleanup Costs

3-11-5 Notifications

3-11-6 Police Authority

3-11-7 City Liability

3-11-1 **PURPOSE.** In order to reduce the danger to public health, safety and welfare from the storage, transportation, and spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills, leakage or release of hazardous substances which create an immediate or potential danger to the public health or safety within the limits of the City of Holy Cross, Iowa.

3-11-2 **DEFINITIONS.** For the purpose of this Ordinance, these terms have the following meanings:

1. “Hazardous waste” means such wastes as defined in Section 455B.411(3)(a), Code of Iowa.
2. “Hazardous substance” means any substance as defined in Section 455B.381(5), Code of Iowa.
3. “Hazardous condition” means any circumstance as defined in Section 455B.381(4), Code of Iowa.
4. “Person having control over a hazardous substance” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous condition, including bailees, carriers, and any 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, as defined in Section 455B.381(7), Code of Iowa.
5. “Cleanup” means the same as defined in Section 455B.381(1), Code of Iowa.
6. “Treatment” means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safe for transport, amenable for recovery and for storage, or to reduce it in volume. “Treatment” includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it nonhazardous.
7. “Authorized person” means the Mayor or his or her duly appointed designee.

3-11-3 **CLEANUP REQUIRED.**

1. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of a hazardous substance or waste has entered or may enter the environment, be emitted into the air, or discharged into any waters, including ground waters, the person having control over a hazardous substance shall alleviate the condition by cleanup or treatment, as defined by Section 3-4-2(5) and (6) of this chapter, and shall restore the affected area to its condition prior to the hazardous condition as far as practicable. The cost of cleanup or treatment shall be borne by the person having control over a hazardous substance.
2. If the person having control over a hazardous substance cannot be located within a reasonable period of time, or if the person having control over a hazardous substance does not cause the cleanup or treatment

to begin within a time reasonable in relation to the hazard and circumstances of the incident, the City may, by the authorized person, give notice which shall be reasonable considering the character of the hazardous condition. The notice shall state a deadline for accomplishing the cleanup or treatment and state that the City will proceed to procure cleanup or treatment services if the cleanup or treatment is not accomplished within the deadline. The notice shall set forth a reasonable estimate of the cost of cleanup or treatment and state that the person having control over a hazardous substance will be billed for all costs associated with the cleanup or treatment, including but not limited to equipment rendered unserviceable, personnel costs (including overtime), disposal costs and .any -other costs associated with the cleanup or treatment.

3. If the bill for the above services is not paid within thirty (30) days, the. City may proceed, after service of notice, either by certified mail or by one publication in a newspaper having general circulation within the City, and hearing before the City Council, to obtain payment by all available legal means.

4. If the cost of cleanup or treatment is beyond the capacity of the City to finance it, the authorized person shall proceed pursuant to Section 455B. 387(2), Code of Iowa, and immediately seek any state or federal funds available for such cleanup or treatment.

3-11-4 LIABILITY FOR CLEANUP COSTS. The person having control over a hazardous substance shall be strictly liable to the City for all of the following:

1. Those costs set forth in Section 3-4-3(2) of this chapter.
2. The reasonable costs incurred by the City to evacuate persons from the area threatened by a hazardous condition caused by the person having control over a hazardous substance.
3. Reasonable damages for injury to, destruction of, or loss of City property, including parts and roads, resulting from a hazardous condition caused by the person having control over a hazardous substance, including the cost of assessing the injury, destruction or loss.

3-11-5 NOTIFICATIONS.

1. Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Mayor of the occurrence of a hazardous situation as soon as possible, but no later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The Mayor shall immediately notify the Department of Natural Resources.
2. Any municipal employee or fire department personnel who discovers a hazardous condition shall immediately notify the Fire Chief and Dubuque County Sheriff. The authorized person shall notify proper state authority in the manner established by state regulation.

3-11-6 POLICE AUTHORITY. If the circumstances so require, the authorized person may:

1. Order the evacuation of persons to areas away from the site of a hazardous condition, and/or
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to such site to persons engaged in cleanup or treatment.

No person shall disobey an order of the authorized person or any law enforcement official acting under direction of the authorized person issued under this section.

3-11-7 CITY LIABILITY. Except where the City is the person having control as defined in 3-4-2(4) of this chapter, the City shall not be liable to any person for claims of damages, injuries, or loss resulting from any hazardous condition.

TITLE III COMMUNITY PROTECTION

CHAPTER 12 ABOVEGROUND FUEL STORAGE

3-12-1 Purpose

3-12-2 Definitions

3-12-5 Prohibited Storage

3-12-1 **PURPOSE.** In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, this ordinance is promulgated to establish the prohibition of certain activities within the city limits.

3-12-2 **DEFINITIONS.** For the purpose of this ordinance, these words have the following meaning:

1. "Fuel" means gasoline and/or diesel fuel.
2. "Resale purposes" means the sale of merchandise for direct consumption or use by the purchaser as an ultimate consumer.

3-12-3 **PROHIBITED STORAGE.** All aboveground fuel storage for resale purposes shall be prohibited within the City limits.

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-5	Impounding
4-1-2	Immunization	4-1-6	Dangerous Animals
4-1-3	At Large Prohibited	4-1-7	Keeping a Vicious Animal
4-1-4	Animal Nuisances	4-1-8	Kennel Dogs

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

1. The term “dogs” shall mean animals of the canine species whether altered or not.
2. The term “at large” shall mean any animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or “at heel” beside a competent person and obedient to that person’s command.
3. The term “owner” shall mean any person owning, keeping, sheltering or harboring an animal.

4-1-2 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.

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor.”

(Code of Iowa, Sec. 351.39)

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

(Code of Iowa, Sec 351.39)

4-1-6 DANGEROUS ANIMALS.

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

2. Definitions. A dangerous animal is:

a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.

b. The following are animals which shall be deemed to be dangerous animals per se:

(1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;

(2) Wolves, coyotes, and foxes;

(3) Badgers, wolverines, weasels, skunks and mink;

(4) Raccoons;

(5) Bears;

(6) Monkeys, chimpanzees, and apes;

(7) Alligators and crocodiles;

(8) Scorpions; gila monsters;

(9) Snakes that are venomous or constrictors;

(10) Staffordshire terriers - known as pit bulls;

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

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

3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-7 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

4-1-8 KENNEL DOGS. Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this ordinance.

TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

CHAPTER 1 LIBRARY SERVICES - RESERVED

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 MOBILE HOME REGULATION

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

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

1. “Mobile home” means any manufactured or modular home which is constructed at a factory to the construction and safety standards established under 42 USC 5403 and moved from the factory to another site for human habitation.

(Code of Iowa, Sec. 435.1(4))

2. “Mobile home park” shall mean any site, lot, field, or tract of land upon which three or more occupied mobile homes, are placed on developed spaces connected to all available public utilities.

(Code of Iowa, Sec. 435.1(5))

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

6-1-3 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 one (1) year 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.

(Code of Iowa, Sec. 435.26)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 2 UTILITIES - SANITARY SYSTEM

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

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.

2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC 567-69.3(1))

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

(IAC 567-69.3(1))

4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.

6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.

8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and

groundwaters are not intentionally admitted.

13. “Sewage” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

14. “Sewage Treatment Plant” shall mean any arrangement of devices and structures used for treating sewage.

15. “Sewage Works” shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

16. “Sewer” shall mean a pipe or conduit for carrying sewage.

17. “Slug” shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

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

19. “Superintendent” shall mean the Superintendent of Public Utilities of the City of Holy Cross or the Superintendent’s authorized deputy, agent, or representative.

20. “Suspended Solids” shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

21. “Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner’s expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f))
(IAC 567-69.3(3))

5. The municipality shall install and maintain at its expense that portion of the service up to and including the main. The customer shall install and maintain at its expense that portion of the service from said main to the premises. The size and slope of the building sewer shall be subject to the approval of the authorized personnel of the municipality, but in no event shall the diameter be less than four (4) inches. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.

(Ord. 91-1, Passed July 2, 1991)

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 City Council.

2. The City Council shall supervise the installations of private sewers and their connections with public sewers in this City and enforce all regulations pertaining thereto in accordance with this Ordinance. This Ordinance shall apply to all replacements of existing sewers, as well as to new sewers. The City Council may make such regulations as are necessary and that do not conflict with this Ordinance.

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. Other exceptions will be allowed only by special permission granted by the City Council.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Inspector, to meet all requirements of this Ordinance.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.”

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

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

Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 “Standard Specification for Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated.”

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

Extra Heavy Cast Iron Soil Pipe

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

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

Polyvinyl Chloride (PVC)

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

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

Minimum wall thickness:

4” - 0.125”

6” - 0.180”

8” - 0.240”

10" - 0.300"

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

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

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

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

10. Each and every part of the building sewer shall be inspected and approved by the Inspector before being concealed or back-filled. The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or the Inspector'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 Inspector. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
- c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to,

ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Inspector. Where necessary in the opinion of the Inspector, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Inspector 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 Inspector 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 Inspector 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 Inspector.

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 Inspector 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 Inspector 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 Inspector in compliance with applicable State or Federal regulations.

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

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

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

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Inspector, 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 Inspector 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 Inspector 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 Inspector, 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 Inspector, 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 Inspector. 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 Inspector 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 Inspector or the Inspector'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 Inspector 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 Inspector 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	6-3-6	Inspection and Approval
6-3-2	Mandatory Connections	6-3-7	Completion by the City
6-3-3	Water Supply Control	6-3-8	Meter Accuracy and Test
6-3-4	Making the Connection	6-3-9	Shutting off Water Supply
6-3-5	Excavations		

6-3-1 ENFORCEMENT. The Mayor 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 Mayor 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))

6-3-4 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. The municipality shall install and maintain at its expense that portion of the water system up to and including the main. The customer shall install and maintain at its expense that portion of the service from said main to the premises. There shall be no pre-determined connection fee. The customer shall bear all costs and expense incidental to the connection to the main. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by said installation.

(Ord. 91-3, Passed July 2, 1991)

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 Mayor. 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 Mayor or the Mayor'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 Mayor.

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 Mayor before they are covered, and the Mayor shall keep a record of such approvals. If the Mayor refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Inspector's approval. Every person who uses or intends to use the municipal water system shall permit the Mayor or the Mayor'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 City 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 City 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 20 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 three (3) months. If the meter is found to be accurate or slow less than 20 percent fast, the patron shall pay the reasonable costs of the tests.

Compulsory Check. Every meter shall be removed from service at least once each ten (10) years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of _____ percent shall not be returned to service until properly adjusted.

6-3-9 SHUTTING OFF WATER SUPPLY. After giving reasonable notice, the City Council may shut off the supply of water to any customer because of any substantial violation of this chapter. The supply shall not be turned on again until all violations have been corrected and the Mayor has ordered the water to be turned on.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 4 UTILITIES - REFUSE COLLECTION

6-4-1	Definitions	6-4-6	Necessity of Permits
6-4-2	Duty to Provide Cans	6-4-7	Burning of Refuse
6-4-3	Administration	6-4-8	Refuse Other Than Garbage
6-4-4	Storage	6-4-9	Sanitary Landfill
6-4-5	Collections	6-4-10	Separation of Yard Waste Required

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.

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

(Ord. 90-2, Passed July 6, 1990)

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

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

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

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

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

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from 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 shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the Superintendent of refuse and issued by the Clerk.

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

6-4-7 BURNING OF REFUSE.

1. It shall be unlawful for any person to burn or incinerate any garbage, rubbish, or refuse within the City except by permission of the City Council.

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

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

6-4-8 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 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composted on the premises or properly disposed of by the residents.

(Ord. 90-2, Passed July 6, 1990)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 5 UTILITIES - BILLING CHARGES

6-5-1	Utility Defined	6-5-8	Water and Sewer Rates
6-5-2	Districts	6-5-9	Refuse Collection Rates
6-5-3	Disposition of Fees and Charges	6-5-10	Unit Based Pricing
6-5-4	Payment of Bills	6-5-11	Who Shall Pay Sewer Rent
6-5-5	Discontinuing Services, Fees	6-5-12	Sewer Connection Fee
6-5-6	Residential Rental Property	6-5-13	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-5-7	Customer Guarantee Deposits		

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

6-5-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Holy Cross, 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 PAYMENT OF BILLS. Bills for the rates and charges are herein established by the City and shall be sent quarterly. All bills shall be payable on the 30th day of the month following the period of service and shall be paid at the office of the Clerk of the City. If any charge for the services of the system shall not be paid by the 30th day of the month in which it shall be come due and payable, a charge of one point five percent (1.5%) of the amount of the bill shall be added thereto and collected therewith.

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-Treasurer 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-Treasurer by noon on the day preceding the scheduled shut-off date or discontinuance of service."

b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, a fee of \$25.00 shall be paid to the City Clerk-Treasurer 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))

6-5-6 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the property lessor gives written notice to the City that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the utility. Upon receipt, the City shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the City shall return the deposit, within ten days, if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner or property lessor.

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

6-5-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, and be set to the nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for three (3) years shall have their deposits returned. 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 AND SEWER RATES. Water and sewer service shall be furnished at the following quarterly rates per property serviced within the City limits:

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

	Water	Sewer	Rubbish
Minimum usage (2000 gal. or less)	\$15.00	\$30.00	\$25.50
2001 to 4000 gallons	15.00-19.00	30.00	25.50
4010 to 6500 gallons	19.02-24.00	33.00	25.50
6510-9000 gallons	24.02-29.00	36.00	25.50
9010-11,500 gallons	29.02-34.00	39.00	25.50
11,510-14,000 gallons	34.02-39.00	42.00	25.50
14,010-16,500 gallons	39.02-44.00	45.00	25.50
16,510-19,000 gallons	44.02-49.00	48.00	25.50
19,010-21,500 gallons	49.00-54.00	51.00	25.50
over 21,510 gallons	54.02 & over	60.00	25.50

\$15.00 for the first 2000 gallons plus 30 cents per one hundred gallons after that or \$1.50 per one thousand

gallons. The minimum charge shall be \$15.00 per quarter per connection.

(Ord. 96-2, Passed October 1, 1996)
(Ord. 01-4, Passed November 6, 2001)
(Ord. 03-1, Passed January 7, 2003)
(Ord. 05-1, Passed June 7, 2005)
(Ord. 06-1, Passed December 5, 2006)

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, \$28.50 per quarter 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-Treasurer 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 contracted hauler.

(Code of Iowa, Sec. 384.84(1))
(Ord. 96-2, Passed October 1, 1996)

6-5-10 UNIT BASED PRICING.

1. Effective April 7, 2002, each single family dwelling and each dwelling unit on residential property shall be limited to one (1) 33 gallon garbage bag of refuse per week. Weight cannot exceed 40 pounds.

2. If additional bags are necessary, the residents will purchase tags at City Hall for \$1.00 each per bag per week. Each additional bag must be accompanied by this tag.

3. These additional fees are over and above the basic fee for disposal as contracted with the private collector.

(Ord. 3-01, Passed September 4, 2001)

6-5-11 WHO SHALL PAY SEWER RENT. Every person, firm or corporation whose premises now or hereafter are directly or indirectly served by a connection to the city sewer system shall pay rent to the City at the rate and in the manner provided in 6-5-8. For purposes of clarification and illustration, each dwelling unit in an apartment building shall constitute a separate 'premises'.

(Ord. 97-1, Passed February 4, 1997)

6-5-12 SEWER CONNECTION FEE. There shall be no predetermined connection fee. The customer shall pay all costs and expense incidental to the installation and connection of the building sewer to the main. The customer shall indemnify the City of Holy Cross from any loss or damage that may directly or indirectly be occasioned by said installation.

(Ord. 91-2, Passed July 2, 1991)

6-5-13 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in this Chapter applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in this Chapter.

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

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	6-6-4	Safety Measures
6-6-2	Application for Permit	6-6-5	Backfilling and Restoration
6-6-3	Permit Fees	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 a permit from the City Clerk-Treasurer.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk-Treasurer 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 Clerk-Treasurer 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 Clerk-Treasurer 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 \$5.00 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 or major fraction thereof, of main excavation.

6-6-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Mayor 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 Council 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

- 6-7-1 Short Title
- 6-7-2 Purpose
- 6-7-3 Application for Plats
- 6-7-4 Recording of Plat

DEFINITIONS

- 6-7-5 Terms Defined

IMPROVEMENTS

- 6-7-6 Improvements Required
- 6-7-7 Inspection
- 6-7-8 Minimum Improvements
- 6-7-9 Completion of Improvements
- 6-7-10 Performance Bond

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

- 6-7-11 Minimum Standards

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

- 6-7-12 Procedures and Submission Requirements
- 6-7-13 Pre-Application Conference
- 6-7-14 Sketch Plan Required
- 6-7-15 Presentation to Planning Commission or City Council
- 6-7-16 Subdivision Classified
- 6-7-17 Plats Required
- 6-7-18 Requirements of Preliminary Plat
- 6-7-19 Referral of Preliminary Plat
- 6-7-20 Action by the City Engineer
- 6-7-21 Action by the Governing Body
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GENERAL PROVISIONS

6-7-1 **SHORT TITLE.** This chapter shall be known and may be cited as “The City of Holy Cross, 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 Holy Cross, 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 (October 20, 1976) 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 or:

- within two (2) miles of the corporate limits of 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 Holy Cross, Iowa, or (choose one):

- within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor,

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 Holy Cross, 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 (October 20, 1976).
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 Holy Cross, 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 (October 20, 1976) 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 (October 20, 1976), 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 an 8" crushed stone base.
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 may 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.
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 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 Inspector of the City.
 - 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 Inspector 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 subdivider 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.

(1) 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.

(2) 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.

(3) 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-Treasurer. The conference should be attended by the City Clerk-Treasurer 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-Treasurer 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-Treasurer 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 Holy Cross, 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 subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-7-23 REFERRAL FINAL PLAT. The subdivider 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-Treasurer as hereafter set forth, and upon the subdivider'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-Treasurer 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-Treasurer.

(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-Treasurer 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-Treasurer, 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-Treasurer 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 Dubuque, 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 zoning Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

6-7-29 EXTRATERRITORIAL REVIEW AGREEMENT.

Procedures for certifying approval of subdivisions in the extraterritorial area of the City shall be the same as those established for other subdivisions with the City unless waived by the Governing Body.

(Code of Iowa, Sec. 354.8 and 354.9)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 8 SIDEWALK REGULATIONS

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

6-8-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-8-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
 - a. vertical separations equal to three-fourths (3/4) inch or more.
 - b. horizontal separations equal to three-fourths (3/4) inch or more.
 - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
 - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
 - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
 - f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
 - g. a sidewalk with any part thereof missing to the full depth.
 - h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.
2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
3. Owner. The person owning the fee title or the contract purchaser for purposes of notification

required herein. For all other purposes, “owner” shall include the lessee, or person in possession.

6-8-3 **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-Treasurer 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-Treasurer 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 Inspector of Public Works.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) 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 Inspector of Public Works on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.
9. All sidewalks shall have a steel trowel finish followed by a “broom” or a “wood float” finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Inspector of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-8-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk-Treasurer. The permit shall state

that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Inspector of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk-Treasurer. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-8-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-8-12 INSPECTION AND APPROVAL. Upon final completion, the Inspector of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Inspector of Public Works shall indicate this on both copies of the permit.

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

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

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

(Code of Iowa, Sec. 384.38)

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

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 9 TREE BOARD, REGULATIONS

6-9-1 Creation and Establishment
6-9-2 Compensation
6-9-3 Duties and Responsibilities

6-9-4 Operation
6-9-5 Tree Topping

6-9-1 CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the city of Holy Cross, Iowa, which shall consist of five members and one City Council representative chosen by the Mayor and confirmed by the City Council.

6-9-2 COMPENSATION. Members of the Board shall serve without compensation.

6-9-3 DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the Board to study, investigate, counsel and develop a written plan for the care, preservation, trimming, planting, replanting, removal, or disposition of trees and shrubs in public areas. Such a plan will be presented to the City Council and upon its acceptance and approval shall constitute the official comprehensive tree plan for the city of Holy Cross, Iowa. The Board shall review annually and update if needed the comprehensive city tree plan. The Board, when requested by the City Council, shall consider, investigate, make findings, report, and recommend upon any special matter of question within the scope of its work.

6-9-4 OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
(Ord. 92-1, Passed June 3, 1992)

6-9-5 TREE TOPPING. It shall be unlawful as a normal practice for any person, firm or City Department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the trees' crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the City Tree Board.

(Ord. 96-1, Passed June 4, 1996)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 10 BUILDING REGULATIONS

6-10-1 Building Requirements

6-10-1 BUILDING REQUIREMENTS. The following minimum standards are required in new construction in the city of Holy Cross:

1. All new construction is required to have sump pumps in the basement.
2. No foundation tile, sump pumps, down spouts, or any other drain tile shall be discharged into the sewer system. If any are illegally connected they shall be removed at the owner's expense.
3. Require smoke detectors as required by Iowa Code.
4. Require a minimum of Schedule 40 pipe be used for sewer lines and a minimum of 160 psi for water lines.
5. Size of bedroom windows shall be at least 20" by 25" to allow for safe egress in case of fire.
6. Require back flow preventors for sewer lines.
7. If violations are suspected, the city has the right to inspect property before work is covered up.

(Ord., 02-1, Passed January 8, 2002)

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 CABLE TELEVISION FRANCHISE

7-1-1	Purpose	7-1-15	Performance Evaluation Surveys
7-1-2	Definitions	7-1-16	Service Rules
7-1-3	Term and Nature of Franchise	7-1-17	Subscriber Rates
7-1-4	Compliance with Law	7-1-18	Disconnections and Service Terminations
7-1-5	Grant of Franchise and Effective Date	7-1-19	Public Service Installation
7-1-6	FCC Certificate	7-1-20	Emergency Use of Facilities
7-1-7	Construction and Performance Bonds	7-1-21	Existing Antenna
7-1-8	General Franchise Requirements	7-1-22	Prohibited Activities
7-1-9	System Construction Standards	7-1-23	Revocation of Franchise
7-1-10	Joint Use of Facilities	7-1-24	Removal of Property on Termination
7-1-11	Condition of Street Occupancy	7-1-25	Franchise Renewal
7-1-12	Channel Capacity and Programming	7-1-26	City Rights to Purchase System
7-1-13	Performance Standards and Quality of Signal	7-1-27	Assigning Franchise
7-1-14	Office: Complaint Procedures	7-1-28	Indemnification and Insurance
		7-1-29	Changes in Ordinance
		7-1-30	Miscellaneous

7-1-1 **PURPOSE.** The purpose of this Chapter is to provide for the regulation of cable television systems within the City of Holy Cross, Iowa, which operate pursuant to city franchise; to establish standards, regulations, and procedures for the establishment, construction, and operation and maintenance of cable television franchises; and to establish conditions for the use of city streets, alleys, sidewalks, and other city owned right of way and city owned property.

7-1-2 **DEFINITIONS.** For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them in this section. When not inconsistent with the context, words used in the present tense including the future, words used in the plural number including the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and not merely directory.

1. “Additional Service”: Additional service shall mean any communications service provided by the franchise over its cable television system for which a special charge is made based on program or service content, time or spectrum space usage, and shall include all service offered by the franchise that is not included with the basic service.

2. “Basic Service”: Basic service shall mean all communication services provided by the franchise including the delivery system, covered by the regular monthly charge paid by all subscribers, excluding pay channels.

3. “Cable Television System”: The term cable television system shall mean any facility that, in whole or in part, receives directly or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such a service.

4. “Channel”: The term channel shall mean the segment of the electromagnetic spectrum to which a

source of television transmission is assigned.

5. “City”: The term city shall mean the City of Holy Cross, Iowa. When the context so requires, the term city shall mean and include the city, its officers, agents, employees, servants, and independent contractors, and shall include all areas hereafter annexed by the City of Holy Cross.

6. “FCC”: The term FCC shall mean the Federal Communications Commission and any legally appointed or elected successor.

7. “Franchise”: The term franchise shall mean the rights; privileges and authority granted by the city to grantee hereunder and shall include all of the terms and conditions of this Chapter.

8. “Full Cable Service”: Full cable service shall mean all basic services and additional services offered by grantee.

9. “Grantee”: Grantee shall be Shellsburg Cablevision, Inc.* The term grantee shall mean the company granted the franchise. When the context so requires, the term grantee shall mean and include the grantee, its officers, agents, employees, servants, and independent contractors thereof. The terms “grantee” and “franchise” are synonymous.

* That Ordinance No. 01-2 of the city of Holy Cross granting a cable television system franchise dated June 13, 2001 and that the present holder of the franchise has applied for assignment of the same pursuant to Section 4 of such ordinance.

* That the franchise and all terms of Ordinance 01-2 which by this reference are hereby incorporated herein, are hereby assigned to New Century Communications.

(Ord. 02-2, Passed March 5, 2002)

10. “Person”: The term shall mean an individual, corporation, partnership, business, firm or other organization, and shall be construed as singular or plural, or masculine, feminine, or neuter, as the context may require.

11. “Private Property”: The term private property shall mean all property, real, personal, or mixed, owned as a private person, including property owned by a public utility and owned and operated by the city.

12. “Property of Grantee”: The term property of grantee shall mean all property, real, personal, or mixed, owned by the grantee hereunder.

13. “Public Property”: The term public property shall mean all property, real, personal, or mixed, owned by the city, including property owned by a public utility owned or operated by the city.

14. “Service Area”: The term service area shall mean the geographic area within the incorporated limits of the city, including all dwelling units.

15. “Substantially Completed”: Substantially completed shall occur when sufficient distribution facilities have been installed by the franchise so as to permit the offering of the full cable service to at least ninety (90%) percent of the dwelling units in the service area.

7-1-3 TERM AND NATURE OF FRANCHISE. The term of a franchise, unless otherwise cancelled or revoked pursuant to the provisions of this Chapter, shall be fifteen years from the effective date of the

grant thereof. The city shall award franchisee a non-exclusive franchise, right or privilege to construct, erect, operate, modify, and maintain, in, upon, along, above, over, and under the highways, streets, alleys, sidewalks, public ways and public places within the city which are or may hereafter be dedicated to the public use, poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the city of a cable television system, and to furnish said services from such a system to the public pursuant to the terms of this Chapter.

7-1-4 COMPLAINT WITH LAW. Grantee shall at all times during the term of any franchise granted hereunder be subject to all lawful exercise of the police power by the city and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the city has adopted or shall adopt applying to the public generally.

7-1-5 GRANT OF FRANCHISE AND EFFECTIVE DATE. This regulatory ordinance is being passed and adopted by the City Council after the City Council has had the opportunity to investigate the financial and technical and other qualifications of the grantee. In accordance with this ordinance, the city shall grant to grantee a non-exclusive franchise, right and privilege to construct, erect, operate, and modify and maintain, in, upon, along, across, above and over and under highways, streets, alleys, sidewalks, public way and public places now laid or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the city of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communication and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner of easements for the purpose herein set forth.

The non-exclusive franchise and the rights, privileges, obligations and authority granted thereby shall take effect and be in force from and after the thirtieth (30) day following the award thereof, provided that within thirty (30) days following the date of such award grantee shall file with the city the following:

A notarized, written statement by grantee of an unconditional acceptance of the franchise.
A certificate of insurance from grantee's insurance carrier giving evidence that grantee has in effect the insurance coverage required by this ordinance.

A construction bond and a performance bond required by this ordinance.
Reimbursement to the city for the cost of the publications and franchise election. Said amount to be paid within sixty (60) days of the passing of this ordinance.

7-1-6 FCC CERTIFICATE. Grantee shall apply to the Federal Communication Commission for a certificate of compliance within a reasonable period of time, not to exceed ninety (90) days from the effective date of the franchise granted hereunder.

Within ninety (90) days of the effective date of the franchise granted hereunder, grantee shall file with the appropriate authorities and utilities all initial papers and applications necessary to comply with the terms of this ordinance. Within one hundred eighty (180) days of the effective date of the FCC certification, grantee shall begin construction of the cable television system, and pursue such construction with reasonable diligence. Within ten (10) months of the effective date of FCC certification, grantee shall have substantially completed construction of the system within the service area. Within twelve (12) months of the effective date of the certification, grantee shall have completed installation of its entire system and shall have commenced the operation thereof.

The city council may, in its discretion extend the time for grantee to perform any act required herein. The time for performance shall be extended or excused, as the case may be, in the event of a legal challenge to grantee's ability to provide on its cable television system broadcast signals not available off-the-air in the city, or in the event construction is delayed by acts of God, earthquake, lightening, flood, fire, explosion, vandalism, civil disturbance, late delivery of equipment, supplies or machinery by suppliers, late performance by suppliers of services, or other similar cause determined by the satisfaction of the city council to be reasonably beyond grantee's control.

7-1-7 CONSTRUCTION AND PERFORMANCE BONDS.

1. Within thirty (30) days after the effective date of the franchise, grantee shall obtain and maintain at its cost and expense, and file with the city clerk, a corporate surety bond in a company authorized to do business in the State of Iowa and found acceptable by the city council, in the amount of \$5000.00 dollars to guarantee the timely construction and full activation of the cable television system.

2. The bond shall provide, but not be limited to, the following conditions: There shall be recoverable by the city, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the city resulting from the failure of grantee to satisfactorily complete and fully activate the cable television system within twelve (12) months from the issuance of a Certificate of Compliance for the system by the FCC pursuant to the terms and conditions of this ordinance.

Any extensions to the prescribed time limit must be authorized by the city council. Such extensions shall be authorized only when the city council finds that such extension is necessary and appropriate due to causes beyond the control of the grantee.

The construction bond shall be terminated only after the city council finds that grantee has satisfactorily completed and fully activated the cable television system pursuant to the terms and conditions of this ordinance.

The rights reserved to the city with respect to the construction bond are in addition to all other rights of the city, whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such construction bond shall affect any other right the city may have.

Within thirty (30) days after the effective date of this franchise, grantee shall file with the city clerk a performance bond in the amount of \$5000.00 dollars to be maintained in full amount at all times in a surety company approved by the city as security for the faithful performance by grantee of all the provisions of this franchise, and compliance with all orders, permits and directions of the city, and the payment by grantee of any claims, liens, and taxes due the city which arise by reasons of the construction, operation, and maintenance of the system.

If grantee fails to pay to the city any compensation required pursuant to this ordinance within the time fixed herein; or fails, after ten (10) days notice to pay to the city any taxes due and unpaid; or fails to repay the city, within such ten (10) days, any damages, costs or expenses which the city shall be compelled to pay by reason of any act or default of grantee in connection with this franchise; or fails, after three (3) days notice of such failure by the city clerk, to comply with any provisions of this contract which the city council reasonably determines can be remedied by an expenditure of the security, the city may immediately be entitled to the payment, with interest and any penalties, from the bonding company, which amount shall be promptly paid by the bonding company.

7-1-8 GENERAL FRANCHISE REQUIREMENTS. The owner of the property damaged by the

installation, construction, operation, or removal of grantee's facilities shall be justly compensated for such damages.

The cost of the installation, construction, operation or removal of grantee's facilities shall be borne by grantee. The safety, functioning and appearance of public and private property and the convenience and safety of persons shall not be adversely affected by the installation or construction of facilities necessary for a cable system.

7-1-9 SYSTEM CONSTRUCTION STANDARDS. Grantee's plant and equipment, including the antenna site, headend, distribution system, towers, structures, poles, wires, underground cable and appurtenances, shall be installed in accordance with good engineering practices, and shall be located, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the city deems proper to make, or to unnecessarily hinder, or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance, and operation of the system shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters and National Electric Safety Code (outside work) and such applicable laws of the State of Iowa and applicable ordinances of the city which may now be in effect or enacted in the future. All installations shall be of a permanent nature, durable, and maintained in a safe, suitable and substantial condition, in good order and repair.

7-1-10 JOINT USE OF FACILITIES. The city hereby grants the right, privilege and authority to grantee to lease, rent, or in any lawful manner, obtain the use of poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the city, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business.

Grantee shall install its cables on existing poles owned by other holders of public licenses and franchises within the corporate limits of the city whenever possible. When installation of cable on poles is not possible, or when the holders of another public license or franchise have installed underground cable, then in that event, the cable used by grantee will be installed underground. Grantee shall obtain permits from the city before erecting any new poles, underground conduit or appurtenances where none exist at the times grantee seeks to install its system. At such time that any overhead electrical distribution or service wires are placed underground, grantee shall be required to place its cables, wire or life facilities underground, preferably at the same time as the electrical under-grounding is accomplished, but in no case more than six (6) months after written notice to place its cables, wires, and other like facilities underground is served by the city on grantee.

The city shall have the right during the life of this ordinance of maintaining upon the poles or in the underground conduits of grantee within the city limits wires and fixtures necessary for a traffic control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the city and shall at all times comply with the reasonable rules and regulations so that there may be minimum danger of contact or conflict between the wires and fixtures of grantee and those used by the city. The city shall also have the right to lease spectrum space from grantee for these purposes at reasonable rates subject to the technical capability of the cable system.

Other than the lease provided in this ordinance, nothing in this ordinance shall grant to grantee any right of property in city-owned property. The city shall not be compelled to maintain any of its property any longer than, or in any fashion other than, in the city's judgment its own business or needs may require.

7-1-11 CONDITION OF STREET OCCUPANCY. Grantee shall be allowed to use the city streets, alleys,

right of ways and public ways and places for the construction and operation of its cable television system provided, however, that in such use and occupancy grantee shall be required to comply with all requirements of the State of Iowa and the Municipal Code pertaining to excavation, streets and sidewalks, and backfills.

Grantee shall restore all property of the city and of the inhabitants thereof to its usual, ordinary, and reasonable condition after the installation of either overhead or underground cable. In case of any disturbances of pavement, sidewalk, driveway, or other surfacing, grantee shall, at its own expense and in the manner approved by the city, replace and restore all paving, sidewalk, driveway, or other surfaces to a condition as good as or better than before said work was commenced.

Grantee's transmission and distribution structures, wires, conduits, cables, and other property and facilities shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with pedestrian traffic or with the proper use of streets, alleys and other public ways and places, and shall cause minimum interference with rights and reasonable conveniences of property owners who adjoin any of the said streets, alleys or other public ways and places.

Grantee shall not place poles or other fixtures when the same will interfere with any gas, electrical, or telephone fixtures, water hydrant, or main, and all cable or other fixtures placed in any street shall be placed on the outer edge of the sidewalk and inside curb line, and those placed in the alleys shall be placed close to the line of the outer edge of said alley, and then in such a manner as to not interfere with the usual travel on said street, alleys, and public right of ways.

If at any time during the period of a franchise, the city shall elect to alter, or change the grade of any street, alley or public way, grantee, upon reasonable notice by the city, grantee shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

Any opening or obstruction in the streets or other public ways made by grantee in the course of the construction, operation or removal of the cable television system shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Grantee shall, whenever it is deemed necessary by the city, install such steel plates as may be necessary to allow a public roadway to remain open while grantee is in the course of the construction, operation or removal of the cable television system.

Grantee shall be responsible for securing any and all private easements necessary for the construction of the cable television system.

Grantee shall, on the request of any person holding a building-moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, and raising or lowering of wires, shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Grantee shall be given not less than five days advance notice to arrange for such temporary wire changes.

Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of grantee. All trimming will be done under the supervision and direction of the city and at the expense of the grantee.

Grantee shall at all times provide the city, without charge, with prints showing the location of all poles within the city's corporation limits, joint poles, underground cables, ducts and other cable television facilities. Said grantee shall submit a new, up to date map each year on or near the anniversary date of this franchise

and may, at its option, submit amendments at more frequent intervals so that its facilities can be more fully protected from injury due to public improvements and the city can more readily enforce its controls over the use of its streets, alleys, and other public places. The city agrees to require its officers, engineers, contractors, supervisors, and employees to exercise diligence in avoiding damage to such cable facilities and to consult with grantee's representative where reasonable doubts exist as to location and chance of damage to grantees facilities. Grantee agrees that its officers, supervisors, employees, and agents will take similar precautions with city facilities.

7-1-12 CHANNEL CAPACITY AND PROGRAMMING. Grantee shall include the signals of all television broadcast signals generally available off-the-air to residents in the city and a number of additional television signals consistent with the rules and regulations of the Federal Communications Commission and all other applicable laws, rules, and regulations. Grantee's cable television system must have the capacity to provide at least twenty (20) television channels within eighteen (18) months after the system is substantially completed. Grantee may provide such automated video services and such audio services as it wishes and are consistent with the terms of the article. Grantee may provide at least one (1) channel for programming of local weather and time. Grantee may provide one (1) channel for local access.

7-1-13 PERFORMANCE STANDARDS AND QUALITY OF SIGNAL. Grantee shall, during the period of its franchise, distribute standard color television signals without the introduction of material degradation of color fidelity and intelligence from the headend input to the subscriber's receiver. Grantee shall maintain its system in reasonable repair and, working order and shall provide adequate facilities for such maintenance. These requirements shall be temporarily suspended, at the discretion of the city council, in the event of a natural disaster or emergency conditions or other circumstances beyond the control of the grantee.

Grantee's cable television system shall meet technical standards of the rules and regulations of the Federal Communications Commission and grantee shall perform the periodic tests and make the measurements specified in such rules. The system shall be so designed, engineered, and maintained by grantee so as not to interfere with the television and radio reception of residents of the city who are not subscribers to its services.

7-1-14 OFFICE COMPLAINT PROCEDURES. During the term of its franchise, and any renewal thereof, grantee shall maintain a business office to be staffed by at least one service technician for the purpose of receiving, investigating, and resolving all complaints from subscribers. Such office shall have advertised business hours, a listed telephone number, and be so operated that complaints or requests for repairs or adjustments may be received at any time.

Grantee shall provide the city with the above information, and a card or decal containing the above information, along with specified procedures for reporting troubles or complaints, shall be provided to all subscribers as they are hooked into the system.

Grantee shall make every reasonable effort to resolve any and all complaints to the satisfaction of the subscribers as soon as possible but in any event within three (3) business days of their receipt. The company shall keep a maintenance system log, which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, and the item and date thereof. This log shall be made available for periodic inspection by the city.

Upon receipt by it of any service complaint, the city will forward a copy to grantee or may take the question up by correspondence with grantee. Within such time as may be prescribed by the city, grantee will be called upon to satisfy the complaint or advise the city of its refusal or inability to do so. If grantee satisfies the complaint, it shall so notify the city, giving particulars of the action taken. The city will forward a copy

of grantee's notice of satisfaction to the complainant, with a statement of the procedure to be followed to further prosecute the complaint. When a complaint has not been satisfied, the complainant may file a formal complaint with the city council in the form and manner to be specified thereby. The complaint to the city council must be filed within thirty (30) days from the date of grantee's notice of refusal or inability to satisfy the complaint. Upon receipt of a formal complaint, the city council, or its designate agent, shall ascertain the facts and shall have the power to enforce its decision, if against grantee, by all actions hereunder.

7-1-15 PERFORMANCE EVALUATION SURVEYS. For reevaluation purposes and to gain consumer input on its level of performance and service, grantee shall survey its customers in the service area every three (3) years, within thirty (30) days of the three-year anniversary dates of grantee's obtaining certification for the system from the Federal Communications Commission. Such surveys shall consist of written questions relating to such topics as: service rate structures, fee or discounted services, application of new technologies, system performances, services provided, services requested, programming offered, programming requested, customer service and complaints, privacy and human rights, amendments to this ordinance, under grounding process, and judicial and FCC ratings. Prior to conducting the annual survey, grantee shall submit its proposed questions to the city council, which shall have the final authority to review, modify, delete, add, and revise the questions. Upon receiving the answers to the survey questions, grantee shall tabulate the answers and provide the city with a copy of the tabulated results. The entire cost of the annual survey shall be borne by grantee.

7-1-16 SERVICE RULES. Grantee shall have the right to prescribe service rules and regulations for the conduct of its business with its subscribers and service users, not inconsistent with the provisions of its franchise, the rules and regulations of the Federal Communications Commission, the complaint procedures specified in the ordinance, and other applicable laws, rules and regulations. Grantee shall submit to the city the form of its service agreement between grantee and its subscribers and channel users, shall furnish the city a full schedule of its charges to be paid by subscribers before soliciting for subscribers within the city, and shall furnish the city any amendments or alterations in the service agreement or schedule of changes.

7-1-17 SUBSCRIBER RATES. The charges made to subscribe to grantee's services shall be fair and reasonable and no higher than necessary to meet all costs of service (assuming efficient and economical management) and to provide a fair return on the original cost, less depreciation of assets devoted to such services.

It shall be the obligation of grantee to serve all residents of the city except to the extent that density of homes, adverse terrain, or other factors render providing service impractical, technically unfeasible, or economically non-compensatory as approved by the city council.

Installation charges may vary among subscribers depending on the subscriber's location in the City of Holy Cross with the cost of installation for subscribers in the central area. The city has been divided into zones for the purpose of assigning installation, service, and other charges.

Grantee shall at all times maintain on file with the city clerk a schedule setting forth all current rates and charges to be made to subscribers for basic services, including installation charges for any additional services.

Grantee shall not increase basic service rates for at least one year from the effective date of the granting of the franchise.

Grantee shall not, as to rates, charges, service, facilities, rules, regulations, or in any other respects, make or grant any preference or advantage to any person, nor subject any persons to any prejudice or disadvantage; provided, however, this paragraph shall not be deemed to prohibit the establishment of a graduated scale

or charges and classified rate schedules to which any customer coming within such classification shall be entitled.

Channel selectors and converters of a type other than the basic converter necessary to receive cable services may be provided by grantee to those subscribers requesting use of same, for which grantee may make a reasonable charge for such use. Subscribers shall have the option to use channel selectors and converters provided by grantee or to use those acquired from an independent or outside source. If a subscriber uses a channel selector or converter not provided by grantee, grantee shall make no charge for same or use thereof.

It shall be unlawful for grantee to assess any monetary penalty against a subscriber as a result of failure to pay a user's bill by a specified date. Further, no subscriber service shall be disconnected without such procedures and hearing as required by law.

7-1-18 DISCONNECTIONS AND SERVICE TERMINATIONS. There shall be no charge for disconnection of any installation of subscriber outlets. If any subscriber fails to pay any fee or charge, grantee may disconnect the subscriber's service upon giving five (5) days advance written notice of intent to disconnect. After disconnection and upon payment of all delinquent fees and reconnection charges, grantee shall promptly reinstate the subscriber's service.

Upon termination of service to any subscriber for any reason, grantee shall, upon the subscriber's written request, promptly remove all of its facilities and equipment from the subscriber's premises without charge, providing that where the subscriber is a lessee of the premises, the facilities and equipment shall not be removed without the lessor's consent.

7-1-19 PUBLIC SERVICE INSTALLATION. Grantee shall, without charge for installation, maintenance or service, install one subscriber outlet for use by the City of Holy Cross and at the discretion of the grantee it may install one subscriber outlet for each of the following: Holy Cross Fire Station within the city limits; RHCL Grade School; and Dubuque County Library, Holy Cross Branch. Such installation shall be for basic service only, shall be made at such reasonable location within the city as may be requested by the city and shall be made at actual cost. No charges shall be made for distribution for grantee's service within such public buildings. In consideration for such public service installation, the city agrees to lease to grantee for the headend site a tract of land of a maximum size of 60 feet by 60 feet long with a 15 feet wide access easement to a public road.

7-1-20 EMERGENCY USE OF FACILITIES. In the event of any emergency or disaster, grantee shall, upon request of the city, make its facilities available to the city for emergency use during the emergency or disaster.

7-1-21 EXISTING ANTENNA. Grantee shall, upon request of any subscriber, install at actual costs, and a switching device to permit a subscriber to continue to utilize his own antenna. Grantee shall not require the removal or attempt to remove a subscriber's antenna.

7-1-22 PROHIBITED ACTIVITIES. It shall be unlawful for any person, firm, or corporation to make, possess, or use; or attempt to make, possess, or use; or to aid, abet, or assist, and person, firm or corporation to make, possess or use; or to knowingly permit or authorize to remain in existence, any of the following:

1. Any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised cable television system within the city; or
2. Any unauthorized device for attachment to a cable, wire, or other, component of a cable television

system or a television cable or set; or

3. Any modification or alteration to any device installed by a cable television system;

A. For the purpose of enabling himself or others to take or receive television signals, radio signals, pictures, programs, or sounds, without payment to the owner of said system.

Grantee shall be prohibited from selling, or in any other manner, making available grantee's subscriber lists to any person, firm, or corporation other than the city.

Any person violating or failing to comply with any of the provisions of this section shall be guilty of a simple misdemeanor, and for each day of violation or failure to comply, may be punished by a fine not to exceed \$100.00 or imprisonment for term not to exceed thirty (30) days.

7-1-23 REVOCATION OF FRANCHISE. If grantee shall fail to comply with any of the provisions of its franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of grantee, and shall fail within thirty (30) days after written notice from the city to commence, and within a reasonable time, complete the correction of such default and noncompliance, the city shall have the right to revoke its franchise and all rights of grantee hereunder.

However, prior to the issuance of the above 30-day notice, grantee shall receive a ten (10) day notice from the city notifying grantee of a public hearing to review the unresolved issues(s). In the event grantee shall be adjudicated bankrupt or placed in receivers the city may declare the franchise forfeited and terminated.

7-1-24 REMOVAL OF PROPERTY ON TERMINATION. Upon termination of its franchise, grantee shall remove its poles, cable television transmission and distribution system, and other appurtenances from the streets and sidewalks in the city, when ordered to do so by the city, and shall restore such streets and sidewalks to their original condition. This shall not apply to poles, cable transmission and distributive system, and other appurtenances used for purposes other than, and in addition to, the providing of cable television services.

7-1-25 FRANCHISE RENEWAL. Grantee shall notify the city at least thirty six (36) months prior to the expiration of its franchise as to whether or not grantee intends to seek a franchise renewal. During the six (6) month period which begins with the thirty sixth (36) month before the franchise expiration, the city may on its own initiative, and shall at the request of grantee, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of: (a) identifying the future cable-related community needs and interests and (b) reviewing the performance of grantee under the franchise during the current franchise term.

7-1-26 CITY RIGHTS TO PURCHASE SYSTEM. In the event that the city terminates this ordinance pursuant to appropriate provisions of this ordinance, the city shall have the right to purchase the cable system at a price not to exceed its then fair market value. The fair market value shall be determined by the city in accordance with generally accepted appraisal and accounting principles. Under to circumstances shall any valuation be made for "good will" or any right or privilege granted by this ordinance.

The city shall have the right to purchase the cable system if this franchise ordinance is terminated at the end of the franchise term. If the city decides to purchase the system it shall do so at a price not to exceed its then fair market value. In determining the fair market value of the system, the original cost of all tangible and intangible property, as well as the salvage value, the book value, the replacement cost, cash flow, and other factors may be considered.

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligation to grantee are honored. In the event grantee elects to overbuilding, rebuild, modify or sell the system, or the city terminates or fails to renew this ordinance, or the city elects to purchase the system, grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regarding of the circumstances. In the event of purchase by the city, or a change of company, the current company shall cooperate with the city to operate the system for a temporary period in maintaining continuity of service to all subscribers.

7-1-27 ASSIGNING FRANCHIS. Grantee shall not sell, transfer, or encumber its system or its franchise, without first securing the approval of the city council; however, grantee is hereby specifically authorized to assign or encumber its system and franchise for the purpose of financing the construction or operation of its system in the city.

7-1-28 INDEMNIFICATION AND INSURANCE. Grantee shall at all times defend, indemnify, protect and save harmless the city and other political subdivisions in the area from and against any and all liability, losses, and physical damage to property and bodily injury or death, including payments made under workmen's compensation law, which may arise out of and be caused by the erection, construction, replacement, removal, maintenance, and operation of grantee's cable television system, and resulting from or any negligence, fault or misconduct on the part of grantee, its agents, officers, servants, and employees. Grantee shall carry public liability insurance in the amounts of no less than \$1,000,000 bodily injury/ \$1,000,000 property damage for the protection of itself and the city and the political subdivisions. Grantee shall also carry workmen's compensation insurance coverage with statutory limits on all its employees who are engaged in any manner in the cable television system. Grantee shall be notified within fifteen (15) days of the presentation thereof to the city, of any claim, demand, or action brought against the city or its political subdivisions for which the city and its political subdivisions may seek reimbursements or defense as provided hereunder. Failure to do so shall not relieve grantee of its obligation to the city.

The city shall not be liable for any damage occurring to grantee's property caused by employees of the city in the performance of their duties, except for damage caused to grantee's facilities by the negligence of the city's employees while they are conducting city business. The city shall not be liable for the interruption of service by actions of city employees in the performance of their duties.

Grantee shall hold the city harmless from any damages which grantee's cable, equipment or other integral parts of its system may cause as a result of any action by any city employee when carrying out said employee's duties, unless due to or caused by the negligence of the City of Holy Cross, or its employees.

7-1-29 CHANGES IN ORDINANCE. The city council reserves the right to change or amend this ordinance at any time during the term of the franchise.

7-1-30 MISCELLANEOUS. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

This ordinance shall apply to grantee and its successors and assignees.

The city shall have the power and authority to seek and obtain civil relief through the judicial system,

including but not limited to, injunctive relief, to enforce and facilitate the provisions of this ordinance.
(Ord. 01-2, Passed June 5, 2001)

TITLE VII SPECIAL ORDINANCES

CHAPTER 2 ELECTRIC FRANCHISE

7-2-1	Franchise Granted	7-2-6	Moving Building or Structure
7-2-2	Use of City Streets	7-2-7	Severability
7-2-3	Municipality Held Harmless	7-2-8	Repeal of Conflicting Ordinances
7-2-4	Public Travel On Streets	7-2-9	Effective Date
7-2-5	Extension of Service		

7-2-1 **FRANCHISE GRANTED.** Corporation, its successors and assigns, herein called the “Grantee,” the right, permission, privilege and franchise, for a period of twenty-five (25) years from and after the taking effect of this Ordinance, subject only to the laws of the State of Iowa as now in force and to the conditions and limitations hereinafter contained, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control an electric plant and an electric transmission and distribution system consisting of poles, wires, conduits, pipes, conductors and other fixtures, within the limits of said municipality necessary, convenient or proper for the production, transmission, distribution and delivery of electric energy to said municipality and its inhabitants for light, heat and power purposes.

7-2-2 **USE OF CITY STREETS.** That said Grantee, its successors and assigns, is hereby granted:

1. The right of way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of said municipality, and;
2. The right of eminent domain, as provided in Section 364.2 of the Code of Iowa, all for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating, maintaining, managing and controlling said electric plant and said electric transmission and distribution system.

7-2-3 **MUNICIPALITY HELD HARMLESS.** That said Grantee shall hold said, municipality free and harmless of and from any and all liability, damages, actions and causes of action, caused by or through the neglect or mismanagement of the Grantee in the erection, installation, construction, reconstruction, repair, operation, maintenance, management or control of said electric plant and electric transmission and distribution system.

7-2-4 **PUBLIC TRAVEL ON STREETS.** That said Grantee shall not, during the erection, installation, construction, reconstruction, repair, operation and maintenance of said plant or transmission and distribution system, unnecessarily impede public travel on the streets, lanes, avenues, sidewalks, alleys, bridges and public ground of said municipality, and shall leave all of said streets, lanes, avenues, sidewalks, alleys, bridges and public grounds upon which it may enter for the purpose herein authorized in as good condition as they were at the date of said entry.

7-2-5 **EXTENSION OF SERVICE.** That said Grantee will extend service to any customer within the corporate limits of the municipality in accordance with the Service Standards of Grantee as filed with the Iowa State Utilities Board of the Department of Commerce.

7-2-6 **MOVING BUILDING OR STRUCTURE.** That whenever any person has obtained permission from the municipality to move any building or structure which may interfere with the poles, wires or other fixtures of said Grantee, Grantee shall, upon five days’ notice thereof, and at the expense of the person desiring to move such structure, remove such poles, wires or other fixtures as may be necessary to allow

the passage of such structure, for a reasonable length of time, upon receipt from such person of satisfactory assurance covering the cost of such removal and replacement and any liability or damage resulting therefrom.

7-2-7 SEVERABILITY. That if any section or portion of a section of this Ordinance shall be declared null and void by any competent authority, the remaining portions hereof shall not be affected thereby.

7-2-8 REPEAL OF CONFLICTING ORDINANCES. That all ordinances or resolutions or parts thereof heretofore adopted by said municipality in conflict with the terms hereof are hereby repealed.

7-2-9 EFFECTIVE DATE. That said ordinance shall take effect from and after its passage, approval and publication according to law.

APPROVAL FOR ELECTION: January 4 _____, 1994

FINAL APPROVAL: May 3 _____, 1994

APPENDIX A

Ordinance NO. 75-2

AN ORDINANCE REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION AND USE OF BUILDINGS, AND STRUCTURES, AND THE USE OF LAND IN THE CITY OF HOLY CROSS, IOWA, AND FOR SAID PURPOSES DIVIDING THE CITY INTO DISTRICTS, AND CREATING A BOARD OF ADJUSTMENT, AND PROVIDING PENALTIES FOR VIOLATIONS OF THE REGULATIONS.

Be It Enacted by the Council of the City of Holy Cross, Iowa:

SECTION 1. Short title. This ordinance shall be known and may be cited as “The City of Holy Cross, Iowa, Zoning Ordinance.”

SECTION 2. Purpose. The purpose of this ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, morals, safety and general welfare in the City of Holy Cross, Iowa.

SECTION 3. Definitions. For use in this ordinance certain terms or words used herein shall be interpreted or defined as follows:

1. Words used in the present tense include the future tense.
2. The singular includes the plural.
3. The word “person” includes a corporation as well as an individual.
4. The word “lot” includes the word “plat” or parcel.
5. The term “shall” is always mandatory.
6. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
7. “Structure” means a combination of materials other than a building to form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, fences, signs and chicken coops.
8. A “dwelling” is a building used as the living quarters for one or more families, not including auto courts, rooming homes or tourist homes.
 - a. A “private dwelling” is a dwelling occupied by but one family alone.
 - b. A “two-family dwelling” is a dwelling occupied by but two families alone.
 - c. A “multiple dwelling” is a dwelling occupied by more than two families.

SECTION 4. Establishment of districts. The City of Holy Cross, Iowa is hereby divided into the

following types of districts:

1. Class A residential districts: One and two family residential districts.
2. Class B residential districts: Multiple family, residential districts.
3. Class A business districts: Main street retail business districts.

SECTION 5. Official zoning map. As shown by the official zoning map, the city is divided into Three (3) classes of districts. The boundaries of these districts are hereby established as shown on the official zoning map of the city, and said map and all notations, references and other information shown thereon shall be and are hereby made a part of this ordinance by reference. The official zoning map, signed by the Mayor and properly attested by signature of the Clerk and date of adoption, shall be and remain on file in the office of the City Clerk.

SECTION 6. Amending official zoning map. Amendments, supplements or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the zoning ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such a mandatory ordinances shall, however not repeal or re-enact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, building and other structures in the City.

SECTION 7. Replacing official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new official zoning map which shall supersede the prior map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by date and the signature of the mayor attested by the City Clerk, under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the zoning ordinance of the City.”

SECTION 8. Application of regulations. Except as hereinafter provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered:
 - (a) To exceed the height;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area; or,
 - (d) To have the narrower or smaller rear yards, side yards, inner or outer courts than are

specified herein for the district in which such building is located.

3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building.

SECTION 9. Class A residential districts. The following uses of land are permitted in all Class A residential districts:

1. Private and two-family dwelling units, provided that mobile homes will not be permitted.
2. Churches and places of worship and parochial schools.
3. Public schools, public libraries, parks, playgrounds.
4. Customary agricultural operations, but not livestock or fowl are to be raised in the district.
5. Small home occupations, provided that there shall be no signs or other evidence of such use other than a small announcement or professional sign not over two (2) square feet in size.
6. Other customary accessory uses and buildings provided such uses are incidental to the principal use and do not include any activity conducted as a business.

SECTION 10. Height of buildings in Class A residence districts. No dwelling or other structure shall be erected to a height in excess of (35) feet.

SECTION 11. Density of population. Lot area shall not be less than (5,000) feet square and lot width not less than fifty (50) feet. There shall be no more than one dwelling placed on each lot of the above size.

SECTION 12. Percentage of lot covered by buildings, dwellings, and other structures. All dwellings or other structures, including accessory buildings shall not cover more than (40) per cent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.

SECTION 13. Yards, courts and open spaces. Each lot shall have front, side and rear yards not less than the following depth and width:

1. Front yard depth (25) feet.
2. Each side yard width (5) feet.
3. Rear yard depth (25) feet.

SECTION 14. Class B residential districts. The following uses of land are permitted in all Class B residential districts:

1. All uses permitted in Class A districts subject to all the restrictions specified in Class A districts.
2. Multiple dwelling units, including rooming and boarding houses and tourist homes.
3. Mobile homes or "home trailer" dwellings will be permitted as a conditional use upon

securing a special permit from the board of adjustment.,

4. Hospitals and sanitariums.

5. Cemetery and the necessary incidental structures with the approval of the board of adjustment and subject to such conditions as are deemed appropriate by such board.

6. Customary agricultural operations including a garden, nursery, and usual farm buildings, subject to the following restrictions:

(a) No building in which farm animals are kept shall be closer than (200) feet to any adjoining lot line.

(b) No storage of manure or odor or dust-producing substance or use shall be permitted within one hundred (100) feet of any adjoining lot line.

(c) No products shall be publicly displayed or offered for sale from the roadside.

7. Public utility structures necessary for the service of the area,

8. One sign advertising the sale or rent of buildings upon which it is located. Such sign shall not exceed six (6) square feet in area and shall be distant from the street line not less than one-half the front yard depth.

9. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business, unless otherwise provided for.

SECTION 15. Height of buildings in Class B residence districts. No dwelling or other structure shall be erected to a height of fifty (50) feet or exceed four (4) stories, unless hereinafter provided.

SECTION 16. Density of population. Lot area for private and two family dwelling units shall be not less than (5,000) square feet and lot width not less than fifty (50) feet, plus an additional one thousand (1,000) feet for each unit over two (2).

SECTION 17. Percentage of lot covered by buildings, dwellings and other structures. All dwellings or other structures, including accessory buildings, shall not cover more than forty (40) per cent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.

SECTION 18. Yards, courts and open spaces. Each lot shall have front, side and rear yards not less than the following depth and width:

1. Front yard depth twenty-five (25) feet.

2. Each side yard width five (5) feet.

3. Rear yard depth twenty-five (25) feet.

SECTION 19. Required court dimensions.

1. The width of any outer court shall not be less than two-thirds of the height of any opposing

wall forming said court, and the depth shall not be greater than one and one-half times the width.

2. The least dimension of an inner court shall be not less than the full height of the walls forming such court, but in no case less than fifty (50) feet.

SECTION 20. Distance between buildings on same plot. No principal building shall be closer to any other principal building than the average of the heights of said buildings.

SECTION 21. Automobile storage or parking space. In connection with every multiple-family dwelling, there shall be provided automobile storage or parking space equal to not less than forty (40) feet for each family unit in such structure, provided, however, that no front yard shall be used for the open air parking or storage of any motor vehicle.

SECTION 22. Class A business districts. The following regulations and uses permitted shall apply to all general business districts, otherwise known as Class A business districts:

1. All the uses permitted in any residential district subject to all the provisions specified for such residential districts.

2. Stores and shops for the conducting of any lawful retail business.

3. Personal service shops.

4. Banks, theatres, offices, restaurants.

5. Garages and filling stations upon the approval of the Council and subject to such conditions and safeguards as deemed appropriate by such Council and upon the securing of a permit therefor, subject to the following provisions:

(a) Pumps, lubricating or other devices are located at least (20) feet from any street line or highway right-of-way.

(b) All fuel, oil or similar substances are stored at least thirty-five (35) feet distant from any street or lot line.

6. Wholesale businesses allowed, subject to the approval of the Board of Adjustment.

7. The wholesale or bulk storage of petroleum and other explosive or combustible mixtures is permitted subject to conformance with all Iowa Departmental Rules, local fire or safety ordinances, and such other regulations issued by the Fire Chief pertinent to the storage of such products.

8. Other uses permitted:

(a) Advertising signs and billboards.

(b) Amusement places.

(c) Apartment houses.

(d) Auction rooms.

- (e) Bakeries.
- (f) Electric repair shops.
- (g) Freight stations.
- (h) Blacksmith and locksmith shops.
- (i) Painting and decorating shops.
- (j) Plumbing shops.
- (k) Police and fire department stations.
- (l) Post Offices.
- (m) Recreation buildings and structures.
- (n) Roofing or plastering shops or both.
- (o) Sales and/or showrooms.
- (p) Shoe repair shops.
- (q) Undertaking establishments.

(r) Other uses which in the opinion of the Council are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.

SECTION 23. Building height limit. No building shall be erected to a height in excess of fifty (50) feet.

SECTION 24. Required dimensions. Lot dimensions shall not be less than fifty (50) feet in width and fifty (50) feet in depth.

SECTION 25. Yards required.

1. Rear yard: There shall be a rear yard of not less than ten (10) per cent of the depth of the lot.
2. Side yard: A side yard, if provided, shall not be less than three (3) feet wide.

SECTION 26. Percentage of lot covered. No building with its accessory buildings, to be used for said commercial purposes, shall occupy in excess of ninety (90) per cent of the area of the lot.

Any building used for residence purposes shall have a lot area and lot width equal to that required in the least-restricted residence district for the same type of dwelling.

SECTION 27. Uses prohibited. All use of land, buildings and structures or industrial processes

that may be noxious or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions. Prohibited uses shall include, but not be limited to, those which have been declared a nuisance in any court of record, or which may be unreasonably obnoxious, unhealthful or offensive by reason of emission of odor, dust, smoke or noise.

SECTION 28. Review by Council. The above prohibitions are subject to review by the Council and such uses may be permitted if approved by the Council and subject to the securing of a permit therefor and to such conditions, restrictions and safeguards., as., may be deemed necessary for the purpose of protecting the health, safety, morals of general welfare of the community.

SECTION 29. Building height limit. No building in this district shall exceed three (3) stories in height or forty-five feet.

SECTION 30. Yard required. Each lot shall have a front yard not less than twenty-five (25) feet in depth.

SECTION 31. Administration and enforcement. This ordinance shall be enforced by the building inspector. No building permit or certificate of occupancy shall be issued by him except where the provisions of this ordinance have been complied with.

SECTION 32. Permits and certificates of occupancy. No land shall be used or occupied, and no building hereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy and a building permit shall have been issued by the building inspector in accordance with the provisions of this ordinance and the building code.

SECTION 33. Board of adjustment created. The Town Council shall be the board of adjustment. The Mayor shall be the chairman and the Clerk shall be the secretary. Matters of procedure, power and judicial review relating to this board are regulated by statute.

SECTION 34. Nonconforming buildings and uses. The lawful use of any building or land existing at the time of the enactment of this ordinance may be continued although such use does not conform with the provisions of this ordinance.

SECTION 35. Abandonment. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this ordinance.

SECTION 36. Amendments to this ordinance. The boundaries of districts as now established and the regulations thereof may be amended, supplemented or changed, or repealed by the City Council from time to time, either upon its own motion, or upon a petition as herein provided for, or upon recommendation of the Council.

Provided:

1. No such amendment, supplement or change shall be adopted until after a notice thereof is duly published as provided by the law of this state upon conviction, be subject to the imprisonment not exceeding thirty (30) days, or a fine not exceeding \$100.

SECTION 38. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: