

# CITY OF PORTSMOUTH CODE OF ORDINANCES

## 2020

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## TITLE I GENERAL PROVISIONS

### CHAPTER 1 GENERAL PROVISIONS

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

1. "Building" means any man-made structure permanently affixed to the ground.
2. "City" means the City of Portsmouth , Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk" means Clerk-Treasurer.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Shelby, Iowa;
7. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.  
(Amended in 2010)
8. "Fiscal Year" means July 1 to June 30.

9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
10. "May" confers a power;
11. "Month" means a calendar month;
12. "Must" states a requirement;
13. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
14. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
15. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
18. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
19. "Preceding" and "following" mean next before and next after, respectively;
20. "Property" includes real and personal property;
21. "Real property" includes any interest in land;
22. "Shall" imposes a duty;
23. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
24. "State" means the State of Iowa;
25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
28. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
29. "Year" means a calendar year;
30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;
31. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

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

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

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

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

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Portsmouth Municipal Code of 2019 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

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

(Amended in 2010)

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

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.
2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Portsmouth, Iowa is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.
3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: "That the Code of ordinances, City of Portsmouth, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ..." The new section shall then be set out in full as desired.

(Amended in 2010)



## **TITLE I GENERAL PROVISIONS**

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

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

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

## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

1-3-1 General Penalty

1-3-3 Scheduled Fines

1-3-2 Civil Penalty -Municipal Infraction

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

(Code of Iowa, Sec. 903.1(1)(a)

(Amended in 2008)

(Amended in 2009)

(Amended in 2010)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

#### 1. Definitions.

- a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Portsmouth, 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 Portsmouth, 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 Portsmouth.
- c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

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

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

## Schedule of Civil Penalties

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

Repeat Offense: Not more than one thousand dollars (\$1,000.00)  
(Amended in 2010)

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

### 3. Civil Citations

- a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.
- b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.
- c. The original of the citation shall be **sent to** the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the county treasurer.
- d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
  - (1) The name and address of the defendant.
  - (2) The name or description of the infraction attested to by the officer issuing the citation.
  - (3) The location and time of the infraction.
  - (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
  - (5) The manner, location, and time in which the penalty may be paid.
  - (6) The time and place of court appearance.
  - (7) The penalty for failure to appear in court.
  - (8) The legal description of the affected property, if applicable.

- 4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.**
  
- 5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of \$100.00 or by imprisonment in the county jail for a term not to exceed 30 days.**

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

## **TITLE I GENERAL PROVISIONS**

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

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

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

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.
2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### 1-4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.
2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.
3. Continuances. The City Council may grant continuances for good cause shown.
4. Oaths, Certification. The City Council or any member thereof has the power to administer oaths and affirmations.
5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

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

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

"You are hereby notified that an evidentiary hearing will be held before the Portsmouth 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.
6. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.
7. 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.
8. 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.
9. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:
- a. Notice of such inspection shall be given to the parties before the inspection is made;
  - b. The parties are given an opportunity to be present during the inspection; and
  - c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

#### 1-4-6 METHOD AND FORM OF DECISION.

- 1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or alternatively has not read or listened to the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.
- 2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.
- 3. Effective date of decision. The effective date of the decision shall be stated therein.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

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

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for terms of four (4) years each with staggered elections being held in each odd numbered year.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of two years with elections being held in each odd numbered year.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

2-2-1	Creation of Appointive Officers	2-2-6	Surety
2-2-2	Appointment of Officers	2-2-7	Blanket Position Bond
2-2-3	Terms of Appointive Officers	2-2-8	Bonds Filed
2-2-4	Vacancies in Offices	2-2-9	Boards and Commissions
2-2-5	Bonds Required	2-2-10	Gifts

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

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

The City Council shall appoint the first Fire Chief of the volunteer fire department for a term of two (2) years. Future Fire Chiefs shall be elected for terms of two (2) years by the members of the volunteer Fire Department, with the approval of the City Council.

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

#### 2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.
2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.
3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.
4. **Gender Balance. Boards and commissions shall be gender balanced in accordance with Section 69.16A (Iowa Code).**

#### 2-2-10 GIFTS.

1. Except as otherwise provided in Chapter 68B, Code of Iowa, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time.
2. A restricted donor shall not, directly or indirectly, offer to make a gift or a series of gifts to a public official, public employee, or candidate. A restricted donor shall not, directly or indirectly, join with one or more other restricted donors to offer to make a gift or a series of gifts to a public official, public employee or candidate.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

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

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

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

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

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

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

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

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

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

Code of Iowa. Sec. 380.6  
(Amended during 2008)

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.
5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.
6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.
7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.
8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to appoint, employ or discharge from employment officers or employees without the approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

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 a law enforcement officer.

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

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

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

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

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

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

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

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

4. The Clerk shall maintain copies of all effective City Ordinances and codes for public review.  
(Code of Iowa, Sec. 380.7(4))
5. The Clerk shall publish notice of public hearings, elections and other official actions as required by State and City law.  
(Code of Iowa, Sec. 362.3)
6. The Clerk shall certify all measures establishing any zoning district, building lines, or fire limits, and a plat showing each district, lines or limits to the recorder of the county containing the affected parts of the City.  
(Code of Iowa, Sec. 380.11)
7. The Clerk shall be the chief accounting officer of the City.
8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.  
(Code of Iowa, Sec. 384.20)
9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.  
(Code of Iowa, Sec. 384.16(5))
10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.
11. The Clerk shall balance all funds with the bank statement at the end of each month.
12. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.  
(Code of Iowa, Sec. 384.22)
13. The Clerk shall maintain all City records as required by law.  
(Code of Iowa, Sec. 372.13(3) and (5))
14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.  
(Code of Iowa, Sec. 372.13(4))

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.  
(Code of Iowa, Sec. 372.13(4))
25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.  
(Code of Iowa, Sec. 372.13(4))
26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.  
(Code of Iowa, Sec. 384.16)
27. The Clerk shall keep the record of each fund separate.  
(Code of Iowa, Sec. 372.13(4) and 384.85)
28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.  
(Code of Iowa, Sec. 372.13(4))
29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.  
(Code of Iowa, Sec. 372.13(4))
30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.  
(Code of Iowa, Sec. 372.13(4))
31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.  
(Code of Iowa, Sec. 372.13(4))
32. The Clerk shall keep a register of all bonds outstanding and record all payments of interest and principal.
33. The Clerk shall reconcile the library books with the librarian every month.
34. In addition, the City Clerk shall:
  - a. Begin office duties at the city hall during regularly scheduled hours as established by the City Council.
  - b. Attend all training and educational schools required by the City. The City shall pay all costs involved.



- c. Compile, post, and distribute to council members agendas of all meetings.
- d. Give brief report of previous month's duties at each City Council meeting.
- e. Keep record of all mayoral job orders and follow up monthly.
- f. Write payroll, file payroll reports, issue W-2's.
- g. File water and sewer budget and year-end report with relevant bonding agencies.
- h. Make all debt payments on time.
- i. Keep a record of gallons of water sold and pumped.
- j. Keep on file all testing results.
- k. Apply and keep on file all DNR permits required by law.
- l. Collect, open, and screen all mail and correspondence.
- m. Field put input and complaints.
- n. Administer all oaths of office to city officers.
- o. File on a timely basis all county, state, and federal reports as required.
- p. Be courteous in all dealings with the public.

All duties of the city clerk cannot be listed completely as the duties vary from day-to-day. Therefore, written duties are in no way absolute. The mayor or city council may add to the duties at any time. All other duties as assigned by the mayor or city council and related to the operation of the community shall be performed

2-3-7 RESERVED

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

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

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

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

2-3-9 RESERVED.

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

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal utilities.
2. The Superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.
3. The Superintendent shall make a report every month in writing to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of free services rendered to the municipality during the year and their estimated cash value; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.
4. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.
5. The Superintendent shall supervise maintenance and repair of sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, or other city property, and is charged with the duty of correcting unsafe defects.
6. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.
7. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly oral and written reports of the activities of the department to the Mayor on or before the first day of each month.
8. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

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

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.
2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.
3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.
5. The Fire Chief shall make monthly written reports on or before the fifth day of each month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.
6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:
  - a. Fire prevention.
  - b. Maintenance and use of fire escapes.
  - c. The investigation of the cause, origin and circumstances of fires.
  - d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
  - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.
8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

2-4-1 Council Member

2-4-3 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 **\$50.00** for each regular or special meeting of the City Council **but in no event shall any City Council member be paid more than \$1,000 in any one year.**

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$1,200.00 to be paid annually.

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

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

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

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

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1	Budget Adoption	2-5-8	Budget Officer
2-5-2	Budget Amendment	2-5-9	Expenditures
2-5-3	Budget Protest	2-5-10	Authorizations to Expend
2-5-4	Accounts and Programs	2-5-11	Accounting
2-5-5	Annual Report	2-5-12	Budget Accounts
2-5-6	Council Transfers	2-5-13	Contingency Accounts
2-5-7	Administrative Transfers	2-5-14	Petty Cash

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.
4. To permit transfers between programs within the general fund.

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

2-5-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

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



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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

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

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

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

The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

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

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

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

2-5-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. Purchases not exceeding two hundred fifty (\$250.00) in cases of emergency when approved by the mayor, and not exceeding one hundred dollars (\$100.00) normally, may be made by those officials authorized by the City Council.

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

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.20)

2-5-13 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge

any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

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

2-5-14 PETTY CASH. The City Clerk shall establish a petty cash fund not to exceed \$25.00 for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service for which payments the City Clerk shall obtain some form of receipt or bill acknowledge as paid b the vendor or his/her agent. At such time as the petty cash fund is approaching depletion the city clerk shall draw a warrant/check for replenishment in the amount of the accumulated expenditures and said warrant and supporting detail shall be submitted to the council as a claim in the usual manner for claims and charged to the proper funds and accounts. The petty cash fund shall not be used for salary payment or other personal services or personal expenses.

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

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

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

1. City Hall
2. Post Office
3. Shelby County Bank

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

(Code of Iowa, Sec. 380.7)

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 7 CITY ELECTIONS

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

2-7-1 PURPOSE. The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-7-2 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.  
(Code of Iowa, Sec. 376.3)

2-7-3 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.  
(Code of Iowa, Sec. 45.1)

2-7-4 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.  
(Code of Iowa, Sec. 45.2)

2-7-5 PREPARATION OF PETITION. Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

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

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

2-7-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

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

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

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 8 LAW ENFORCEMENT**

2-8-1 Establishment of Services

2-8-2 Copy of Agreement

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

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

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 9 CITY COUNCIL

2-9-1 Powers and Duties  
2-9-2 Exercise of Power

2-9-3 Meetings

2-9-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

1. General. All powers of the City are vested in the City Council except as otherwise provided by law or ordinance.  
(Code of Iowa, Sec. 364.2(1))
2. Wards. By ordinance, the City Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.  
(Code of Iowa, Sec. 372.13(7))
3. Fiscal Authority. The City Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.  
(Code of Iowa, Sec. 364.2(1), 384.16 & 384.38(1))
4. Public Improvements. The City Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.  
(Code of Iowa, Sec. 364.2(1))
5. Contracts. The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.  
(Code of Iowa, Sec. 364.2(1) & 384.95 through 384.102)
6. Employees. The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.  
(Code of Iowa, Sec. 372.13(4))
7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and



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

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

2-9-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

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

(Code of Iowa, Sec. 380.4)

(Amended in 2008)

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

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

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

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

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

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

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

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

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

2-9-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the first Monday of each month at 8:00 o'clock (8:00) p.m. at the American Legion Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.  
(Code of Iowa, Sec. 372.13(5))
3. Quorum. A majority of all City Council members is a quorum.  
(Code of Iowa, Sec. 372.13(1))
4. Rules of Procedure. The City Council shall determine its own rules and maintain records of its proceedings.  
(Code of Iowa, Sec. 372.13(5))
5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 10 RESERVED**

2-7-1 Reserved

## 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 and City Council.

(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 **which the person knows or has reason to know may** injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

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

unless licensed by the Iowa Department of Public Safety **or having in possession a valid permit from the County Sheriff.**

4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.
5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.
6. Discharging firearms and fireworks.  
(Code of Iowa, Sec. 727.2)
  - a. No person, firm, or corporation 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 Mayor or City Council for such purposes.

(Code of Iowa, Sec. 364.12)

### 3-1-6 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the 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, or **recklessly** tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

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

(Code of Iowa, Sec. 716.1)

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



or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

**(This is not an exclusive or exhaustive list)**

- f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.  
(Code of Iowa, Sec. 657.2(6))
- g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.  
(Code of Iowa, Sec. 657.2(7))
- h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.
- i. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing.  
(Code of Iowa, Sec. 657.2(8))
- j. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, unless it be in a building of fire resistant construction.  
(Code of Iowa, Sec. 657.2(9))
- k. The emission of dense smoke, noxious fumes, or fly ash.  
(Code of Iowa, Sec. 657.2(10))
- l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.  
(Code of Iowa, Sec. 657.2(11))
- m. Trees infected with Dutch Elm disease.  
(Code of Iowa, Sec. 657.2(12))
- n. Effluent from septic tank or drain field running or ponding on the ground in the open.
- o. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.  
(Code of Iowa, Sec. 716.1)
- p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.  
(Code of Iowa, Sec. 657.2)

- q. Accumulations of ice or snow remaining on the public sidewalk right of way more than 24 hours after the end of an accumulating snow or ice event.
- r. **Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place to the prejudice to others; causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or upon any pond or pool of water; except for compost piles established and maintained with written permission from the Shelby County Public Health Department and junk or salvage materials property stored in accordance with the Portsmouth Municipal Code;**
- s. **Diseased or damaged trees or shrubs. Any dead, diseased or damaged trees or shrubs, which may harbor insects or diseased pests or diseases injurious to other trees or shrubs or any healthy tree which is in such a state of deterioration that any part of such tree may fall and damage property or cause injury to persons.**
- t. **Weeds. Any condition relating to weeds which is described as a nuisance in the Portsmouth Municipal Code of Ordinances or under state law.**
- u. **Any ditch, drain or water course which is now or hereafter may be constructed so as to prevent surface water and overflow water from adjacent lands entering or draining into and through the same; any storm water detention basin not maintained in an appropriate manner so as to allow its proper function.**
- v. **Stagnant water standing on any property, any property, container or material kept in such condition that water can accumulate and stagnate.**
- w. **Conditions which are conducive to the harborage or breeding of vermin.**
- x. **Infestations of vermin such as rats, mice, skunks, snakes, starlings, pigeons, bees, wasps, cockroaches or flies.**
- y. **Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainage fields, which have failed or do not function properly or which are overflowing, leaking or emanating odors; septic tanks, cisterns and cesspools which are abandoned or no longer in use unless they are empty and cleaned with clean fill; an evolved cesspools or septic tank which does not comply with the Shelby County Department of Health regulation.**
- z. **Unoccupied buildings or unoccupied portions of buildings which are unsecured.**
- aa. **Dangerous buildings or structures.**

**bb. Abandoned buildings.**

- cc. Any hazardous thing or condition on property which may contribute to injury of any person present on the property; hazards include, but are not limited to, open holes, open wells, open foundation, dangerous trees or limbs, abandoned and unsecured refrigerators or trapping devices.**
- dd. The storage, parking, leaving or permitting the storage, parking or leaving of any inoperable or obsolete vehicle upon private property within the City for a period in excess of 48 hours, unless exempted herein. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a legal junk yard or automobile or truck-oriented use operated in the appropriate zone and in compliance with the Portsmouth Municipal Code of Ordinances.**
- ee. All junk yard or salvage operations except those permitted by ordinance and operating in full compliance with the Portsmouth Municipal Code of Ordinances.**
- ff. The open burning of trash, refuse, garbage, junk or salvage materials shall be prohibited within the City limits. Outdoor cooking or burning of wood and yard waste including leaves and tree trimmings shall be permitted if performed in a container constructed of steel, brick or masonry and the fire is no larger than two feet in diameter. Additional open burning may be permitted upon written request, only with the special permission of the City Council provided the burning is in compliance with Open Burning Policy guidelines established by the City in consultation with the Fire Department.**
- gg. Any accumulations of ice, water and snow on public sidewalks, or the failure to remove said accumulations within 24 hours after the creation of such accumulations exist, shall constitute a nuisance and shall be abated pursuant to the provisions specified in the Portsmouth Municipal Code of Ordinances.**
- hh. The parking of motor vehicles on private property without the consent of the property owner or responsible party.**
- ii. Any nuisance described as such or declared by Chapter 657 of the Code of Iowa.**
- jj. The sounding of any horn or other signaling device on any vehicle on any street, public or private place within the City, except as a danger warning, which makes a loud or harsh sound to the disturbance or annoyance of any person and can be plainly audible at a distance of 50 feet.**

- kk. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 50 feet from the source of the amplified sound.**
- ll. Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity.**
- mm. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 7:00 p.m. and 9:00 a.m., except in the case of an emergency of a public health and safety nature, with the approval of the City.**
- nn. No person shall obstruct, deface, destroy or injure any public right-of-way in any manner by breaking up, plowing or digging within the right-of-way without City permission.**
- oo. No person shall throw or deposit on any public or private property any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter or any other debris or like substance which may injure or damage any person, animal or vehicle or which may annoy, injure or become dangerous to the health, comfort or property of individuals or the public.**
- pp. No person shall allow any plants to grow uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of 8 inches or more, nor shall any person allow their grass to grow unattended with a consistent height above 8 inches.**
- qq. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place that prejudices others.**
- rr. Causing or suffering any refuse, garbage, obnoxious substances, hazardous wastes, junk or salvage materials or other offensive or disagreeable substances to be thrown, left or deposited in or upon any street, alley, avenue, sidewalk, park, public square, public enclosure, lot, vacant or occupied.**
- ss. The storage of any appliances, scrap metal, indoor furniture, broken furniture, used building material, unstacked wood, broken toys, broken bicycles and tricycles, bathroom fixtures and similar objects visible from the public right-of-way or adjoining property.**
- tt. Pools and ponds containing stagnant water.**
- uu. Pipes, lumber, drywall, flooring, roofing shingles and other building material left on the property visible from the public right-of-way or adjoining property for a period of time exceeding 72 hours.**

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

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

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 **hereby** prohibited, and a nuisance, may be abated **by criminal citation, municipal infraction or as otherwise** provided in this **Ordinance or Code of Iowa**.

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

3. The numbering of buildings.

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

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

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

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

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

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

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

7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot

clearance above the street from trees extending over the streets, except as provided in Section 3-2-3(1).

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential, **commercial or industrial** building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under ~~Section 364.7~~ **Chapter 657A** by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## **SECTION 2. NUISANCES PROHIBITED.**

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

## **SECTION 3. OTHER PROHIBITED CONDITIONS.**

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

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

- B. The removal, repair or dismantling of a dangerous building or structure.**
- C. The numbering of buildings.**
- D. The connection to public drainage systems.**
- E. The connection to public sewer systems and the installation of sanitary toilet facilities.**

#### **SECTION 4. NOTICE TO ABATE NUISANCE.**

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

#### **SECTION 5. CONTENTS OF NOTICE TO ABATE.**

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

- A. A description of the nuisance.**
- B. The location of the nuisance.**
- C. A statement of the act or acts necessary to abate the nuisance.**
- D. A time period within which to complete the abatement.**
- E. A statement that if the nuisance is not abated as directed, the consequences that may occur.**

#### **SECTION 6. REQUEST FOR HEARING.**

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

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

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

is found to exist, it shall be ordered abated.

**SECTION 7. ABATEMENT IN EMERGENCY.**

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

**SECTION 8. ABATEMENT BY CITY.**

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

3-3-1 Short Title

3-3-2 Definitions

3-3-3 Traffic Accident Reports

3-3-4 Reserved

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 Authority of Police and Fire  
Department Officials

3-3-6 Required Obedience to Provisions of  
this Chapter and State Law

#### TRAFFIC CONTROL DEVICES

3-3-7 Authority to Install Traffic-Control  
Devices

3-3-8 Council to Designate Crosswalks,  
Establish, and Mark Traffic Lanes

3-3-9 Play Streets

#### SPEED REGULATIONS

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

#### TURNING MOVEMENTS

3-3-11 Turning Markers, Buttons and Signs

3-3-12 Authority to Place Restricted Turn  
Signs

3-3-13 Obedience to No-Turn Signs

3-3-14 "U" Turns

#### ONE-WAY STREETS AND ALLEYS

3-3-15 Authority to Designate One-Way  
Streets and Alleys

3-3-16 One-Way Streets and Alleys

3-3-17 Authority on Streets During Certain  
Periods

#### SPECIAL STOPS REQUIRED

3-3-18 Through Highways

3-3-19 Authority to Erect Stop Signs

3-3-20 Stops at Intersecting Through  
Highways and Other Intersections

3-3-21 Stop When Traffic Is Obstructed

3-3-22 School Stops

#### PEDESTRIANS' RIGHTS AND DUTIES

3-3-23 Prohibited Crossing

3-3-24 Pedestrians on Left

#### METHOD OF PARKING

3-3-25 Standing or Parking Close To Curb

3-3-26 Standing or Parking on the Left-  
Hand Side of One-Way Streets

3-3-27 Signs or Markings Indicating Angle  
Parking

3-3-28 Obedience to Angle Parking Signs or  
Markings

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

3-3-29 Stopping, Standing or Parking  
Prohibited in Specified Places

3-3-30 Authority to Paint Curbs and Erect  
Signs Prohibiting Standing or  
Parking

3-3-31 Authority to Impound Vehicles

#### STOPPING, STANDING OR PARKING

3-3-32 Parking Signs Required

3-3-33 Parking During Snow Emergency

3-3-34 All-Night Parking Prohibited

3-3-35 Truck Parking Limited

## MISCELLANEOUS DRIVING RULES

- 3-3-36 Vehicles Not to be Driven on Sidewalks
- 3-3-37 Clinging to Vehicles
- 3-3-38 Parking for Certain Purposes Prohibited
- 3-3-39 Driving Through Funeral or Other Procession
- 3-3-40 Drivers in a Procession
- 3-3-41 Funeral Processions to be Identified
- 3-3-42 Load Restrictions Upon Vehicles Using Certain Streets
- 3-3-43 Truck Routes
- 3-3-44 Vehicular Noise
- 3-3-45 Engine and Compression Brakes

## BICYCLE REGULATIONS

- 3-3-46 Definitions
- 3-3-47 Traffic Code Applies to Persons Riding Bicycles
- 3-3-48 Riding on Bicycles
- 3-3-49 Riding on Roadways and Bicycle Paths
- 3-3-50 Speed
- 3-3-51 Emerging from Alley or Driveway
- 3-3-52 Carrying Articles
- 3-3-53 Parking
- 3-3-54 Riding on Sidewalks
- 3-3-55 Lamps and Other Equipment on Bicycles

3-3-1 **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.

## SNOWMOBILES

- 3-3-56 Snowmobile Definitions
- 3-3-57 Permitted Areas of Operation
- 3-3-58 Regulations
- 3-3-59 Equipment Required
- 3-3-60 Unattended Vehicles
- 3-3-61 Restriction of Operation
- 3-3-62 Traffic Regulation

## OFF-ROAD VEHICLES

- 3-3-63 Definitions
- 3-3-64 General Regulations
- 3-3-65 Reserved
- 3-3-66 Reserved
- 3-3-67 Accident Report

## GOLF CARTS

- 3-3-68 Definitions
- 3-3-69 Operation of Golf Carts

## PENALTIES AND PROCEDURES

- 3-3-70 Notice of Fine Placed On Illegally Parked Vehicle
- 3-3-71 Presumption in Reference to Illegal Parking
- 3-3-72 Local Parking Fines
- 3-3-73 Failure to Pay Parking Citations

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.

(Code of Iowa, Sec. 321.266)

3-3-4 RESERVED.

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by county or state law enforcement officers. Law enforcement officers are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the first responders and fire department may direct or assist law enforcement in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

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

- |    |         |                                 |
|----|---------|---------------------------------|
| 1. | 321.32  | Registration card.              |
| 2. | 321.98  | Operation without registration. |
| 3. | 321.174 | Operators licensed              |

4. 321.180 Violations of instruction permit limitations.
5. 321.189 Driver's license
6. 321.193 Violation of conditions of restricted license.
7. 321.194 Violation of conditions of minor's school license.
8. 321.216 Unlawful use of license.
9. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
10. 321.219 Permitting unauthorized minor to drive.
11. 321.220 Permitting unauthorized person to drive.
12. 321.221 Employing unlicensed chauffeur
13. 321.222 Renting motor vehicle to another
14. 321.223 Driver's license inspection for motor vehicle rental
15. 321.224 Record kept
16. 321.229 Failure to comply with lawful order of peace officer.
17. 321.230 Public officers not exempt.
18. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
19. 321.232 Radar jamming devices.
20. 321.233 Road works exempted.
21. 321.234 Failure to observe seating requirements.
22. 321.236 (Parking) Violation of local ordinance (not a state offense).
23. 321.256 Failure to obey traffic control device.
24. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.

25. 321.258 Arrangement of lights on official traffic-control signals
26. 321.259 Unauthorized signs, signals, or markings.
27. 321.260 Unlawful possession of, or interference with traffic control device.
28. 321.261 Death or personal injuries
29. 321.262 Leaving scene of traffic accident
30. 321.263 Information and aid.
31. 321.264 Striking unattended vehicle.
32. 321.265 Striking fixtures upon a highway.
33. 321.266 Reporting accidents.
34. 321.268 Driver unable to report.
35. 321.275 Motorcycle and motorized bicycles violations.
36. 321.277 Reckless driving.
37. 321.278 Drag racing prohibited.
38. 321.285 Speed restrictions.
39. 321.286 Truck speed limits (highway).
40. 321.287 Bus speed limits (highway).
41. 321.288 Failure to maintain control.
42. 321.290 Special restrictions.
43. 321.294 Failure to maintain minimum speed when directed by officer.
44. 321.295 Excessive speed on bridge.
45. 321.297 Driving on wrong side of two-way highway.
46. 321.298 Failure to yield half of roadway upon meeting vehicle.



47. 321.299 Passing on wrong side.
48. 321.302 Overtaking and passing.
49. 321.303 Unsafe passing.
50. 321.304 Unlawful passing.
51. 321.305 Violating one-way traffic designation.
52. 321.306 Improper use of lanes.
53. 321.307 Following too closely.
54. 321.308 Following too closely (trucks and towing vehicles).
55. 321.309 Failure to use approved drawbar.
56. 321.310 Unlawful towing of four-wheeled trailer.
57. 321.311 Turning from improper lane.
58. 321.312 Making U-turn on curve or hill.
59. 321.313 Unsafe starting of a stopped vehicle.
60. 321.314 Unsafe turn or failure to give signal.
61. 321.315 Failure to give continuous turn signal.
62. 321.316 Failure to signal stop or rapid deceleration.
63. 321.317 Signal light requirements; see equipment violation.
64. 321.318 Incorrect hand signal.
65. 321.319 Failure to yield to vehicle on right.
66. 321.320 Failure to yield upon left turn.
67. 321.321 Failure to yield upon entering through highway.
68. 321.322 Failure to obey stop or yield sign.
69. 321.323 Unsafe backing on highway.

70. 321.324 Failure to yield to emergency vehicle.
71. 321.325 Pedestrian disobeying traffic control signal.
72. 321.326 Pedestrian walking on wrong side of highway.
73. 321.327 Pedestrian right-of-way.
74. 321.328 Pedestrian failing to use crosswalk.
75. 321.329 Vehicle failing to yield to pedestrian.
76. 321.330 Use of crosswalks.
77. 321.331 Soliciting ride from within roadway.
78. 321.332 Unlawful use of white cane.
79. 321.333 Failure to yield to blind person.
80. 321.334 Penalties.
81. 321.340 Driving in or through safety zone.
82. 321.341 Failure to properly stop at railroad crossing.
83. 321.342 Failure to obey stop sign at railroad crossing.
84. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
85. 321.344 Unlawful movement of construction equipment across railroad track.
86. 321.353 Unsafe entry into sidewalk or roadway.
87. 321.354 Stopping on traveled part of highway.
88. 321.355 Disabled vehicle.
89. 321.356 Officers authorized to remove.
90. 321.357 Removed from bridge.
91. 321.358 Stopping, standing, or parking where prohibited.

92. 321.359 Moving other vehicles.
93. 321.360 Prohibited parking in front of certain buildings.
94. 321.361 Parking too far from curb/angular parking.
95. 321.362 Parking without stopping engine and setting brake.
96. 321.363 Driving with obstructed view or control.
97. 321.364 Preventing contamination of food by hazardous material
98. 321.365 Coasting upon downgrade.
99. 321.366 Improper use of median, curb, or controlled access facility.
100. 321.367 Failure to maintain distance fire-fighting vehicle.
101. 321.368 Crossing unprotected fire hose.
102. 321.369 Putting debris on highway/roadway.
103. 321.370 Removing injurious material.
104. 321.371 Clearing up wrecks.
105. 321.372 School bus provisions.
106. 321.377 Excessive speed of school bus.
107. 321.381 Driving or towing unsafe vehicle.
108. 321.382 Operating underpowered vehicle.
109. 321.383 Failure to display reflective device on slow-moving vehicles.
110. 321.384 Failure to use headlamps when required.
111. 321.385 Insufficient number of headlamps.
112. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
113. 321.387 Improper rear lamp.

114. 321.388 Improper registration plate lamp.
115. 321.389 Improper rear reflector.
116. 321.390 Reflector requirements.
117. 321.391 Improper type of reflector.
118. 321.392 Improper clearance lighting on truck or trailer.
119. 321.393 Lighting device color and mounting.
120. 321.394 No lamp or flag on rear-projecting load.
121. 321.395 Parking on certain roadways without parking lights.
122. 321.396 Exceptions
123. 321.397 Improper light on bicycle.
124. 321.398 Improper light on other vehicle.
125. 321.402 Improper use of spotlight.
126. 321.403 Improper use of auxiliary driving lights.
127. 321.404 Improper brake light.
128. 321.405 Self illumination.
129. 321.408 Back-up lamps.
130. 321.409 Improperly adjusted headlamps.
131. 321.415 Failure to dim.
132. 321.418 Alternate road lighting equipment
133. 321.419 Improper headlighting when night driving.
134. 321.420 Excessive number of driving lights.
135. 321.421 Special restrictions on lamps
136. 321.422 Lights of improper color-front or rear.

137. 321.423 Special light/signal provision.
138. 321.430 Defective braking equipment.
139. 321.431 Brake performance ability.
140. 321.432 Defective audible warning device.
141. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle
142. 321.434 Use of siren or whistle on bicycle.
143. 321.436 Defective or unauthorized muffler system.
144. 321.437 Mirrors.
145. 321.438 Windshields.
146. 321.439 Defective windshield wiper.
147. 321.440 Defective tires.
148. 321.441 Unauthorized use of metal tire or track.
149. 321.442 Unauthorized use of metal projection on wheels.
150. 321.443 Exceptions
151. 321.444 Failure to use safety glass.
152. 321.445 Failure to maintain or use safety belts.
153. 321.446 Failure to secure child.
154. 321.449 Special regulations.
155. 321.450 Hazardous materials.
156. 321.452 Scope and effect.
157. 321.453 Exceptions.
158. 321.454 Width and length violations.

- 159. 321.455 Excessive side projection of load – passenger vehicle.
- 160. 321.456 Excessive height.
- 161. 321.457 Excessive length.
- 162. 321.458 Excessive projection from front of vehicle.
- 163. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 164. 321.460 Spilling loads on highways.
- 165. 321.461 Excessive tow-bar length.
- 166. 321.462 Failure to use required towing equipment.
- 167. 321.463 Maximum gross weight.
- 168. 321.465 Weighing vehicles and removal of excess.
- 169. 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 Mayor or 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 Mayor or City Council shall keep a record of all traffic-control devices maintained by the department.

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

(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:**

Highway 191: 35 miles per hour

**2. Decreased speed:**

Business or School District: 20 miles per hour.

Residential District: 20 miles per hour.

Parks, cemeteries and parking lots: 15 miles per hour.

(Code of Iowa, Sec. 321.290)

## TURNING MOVEMENTS

3-3-11 **TURNING MARKERS, BUTTONS AND SIGNS.** The City Council may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a

vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

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

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

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

#### ONE-WAY STREETS AND ALLEYS

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

3-3-16 **RESERVED.**

3-3-17 **AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.** The Mayor is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Mayor 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:

1. Iowa State Highway 191
2. Iowa State Highway 44  
(Code of Iowa, Sec. 321.345 and 321.350)

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

3-3-20 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS.

At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the City Council is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Mayor, and, upon approval of the Mayor, shall erect an appropriate sign at every place where a stop or yield is required.

1. A four-way stop shall be placed at the intersection of Highways 44 and 191.
2. A four-way stop shall be placed at the intersection of 2<sup>nd</sup> Street and 3<sup>rd</sup> Avenue.

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 law enforcement.
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 curbing to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the City Council, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

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

3-3-31 **AUTHORITY TO IMPOUND VEHICLES.** Members of the City Council are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated 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 Mayor to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

3-3-33 **PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the City Council 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)

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

3-3-35 TRUCK PARKING LIMITED. Trucks licensed for five (5) tons or more shall not be parked on any interior streets within the City.

#### 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 law enforcement officers.

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:**

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:
  - a. Iowa State Highway 44
  - b. Iowa State Highway 191
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 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. “Bicycles” shall mean either of the following:
  - a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
  - b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)  
(Amended in 2008)

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

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

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

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

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

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

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

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

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

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

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

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

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

3-3-55 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 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

### 3-3-56 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.

### 3-3-57 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.

### 3-3-58 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.

3-3-59 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

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

3-3-60 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.

3-3-61 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.

3-3-62 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

## OFF-ROAD VEHICLES

3-3-63 DEFINITIONS. For use in this Chapter the following terms are defined:

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

(Code of Iowa, Section 321.1)

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

thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a steering wheel for control.

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

3-3-64 Operation of off road vehicles. The operation of ATV or off road **motorcycles** shall comply with the following restrictions:

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

(Code of Iowa 321I.13)

4. Compliance with State Code. All Operation shall comply with Iowa Code Chapter 321I

3-3-65 Reserved

3-3-66 Reserved

3-3-67 ACCIDENT REPORTS. Whenever an ATV, off-road motorcycle, or off-road utility vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321I.11)

## GOLF CARTS

3-3-68 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.

3-3-69 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver’s license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf

cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

## PENALTIES AND PROCEDURE

3-3-70 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

3-3-71 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.

3-3-72 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. Overtime parking                  | \$5.00    |
| 2. Prohibited parking                | \$5.00    |
| 3. No parking zone                   | \$5.00    |
| 4. Blocking alley                    | \$5.00    |
| 5. Illegal parking                   | \$5.00    |
| 6. Street cleaning                   | \$5.00    |
| 7. Snow removal ban                  | \$5.00    |
| 8. Persons with disabilities parking | \$ 200.00 |

(Code of Iowa, Sec. 321L.4(2))

3-3-73 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.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 4 RAILROAD REGULATION**

3-4-1	Definitions	3-4-4	Street Crossing Obstructions
3-4-2	Warning Signals	3-4-5	Maintenance of Crossings
3-4-3	Street Crossing Signs and Devices	3-4-6	Flying Switches

3-4-1 **DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. The term "railroad train" shall mean an engine or locomotive with or without cars, coupled thereto, operated on rails.

(Code of Iowa, Sec. 321.1(58))

2. The term "operator" shall mean any individual, partnership, corporation or other association that owns, operates, drives or controls a railroad train.

3-4-2 **WARNING SIGNALS.** Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-4-5 of this chapter.

(Code of Iowa, Sec. 327G.13)

3-4-3 **STREET CROSSING SIGNS AND DEVICES.** Operators shall erect and maintain non-mechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail.

(Code of Iowa, Sec. 327G.15)

3-4-4 **STREET CROSSING OBSTRUCTIONS.** A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

(Code of Iowa, Sec. 327G.32)

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

An employee is not guilty of a violation if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

3-4-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Code of Iowa, Sec. 327G.15)

3-4-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such car's or cars' approach.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 5 FIRE PROTECTION

- |                                                           |                                 |
|-----------------------------------------------------------|---------------------------------|
| 3-5-1 Establishment and Purpose                           | 3-5-5 Liability Insurance       |
| 3-5-2 Volunteer Fire Fighters                             | 3-5-6 Fires Outside City Limits |
| 3-5-3 Fire Fighter's Duties                               |                                 |
| 3-5-4 Worker's Compensation and Hospitalization Insurance |                                 |

3-5-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.  
(Code of Iowa, Sec. 364.16)

3-5-2 VOLUNTEER FIRE FIGHTERS. Thirty residents of Shelby County, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination.  
(Code of Iowa, Sec. 362.10)

3-5-3 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. Fire Fighters 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))

3-5-4 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.

3-5-5 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.

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits **or pursuant to an agreement with the County of Township.**  
(Code of Iowa, Sec. 364.16)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

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

3-6-1 PREAMBLE. The City of Portsmouth recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Portsmouth; 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 Portsmouth has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 11:00 p.m. until 5:00 a.m. Sunday through Thursday and 12:00 p.m. until 5:00 a.m. Friday and Saturday.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.



4. Guardian means:
  - a. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
  - a. A biological parent, adoptive parent, or step-parent of another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
  - a. Linger or stay; or
  - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

### 3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Portsmouth, 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 Portsmouth, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - i. Married or had been married.
2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an

offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

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

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

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

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.
2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-7-2 EXEMPTIONS. The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

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

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

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

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

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

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

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

3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC. No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

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

3-7-10 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

3-7-11 REVOCATION OF PERMIT. The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 8 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 9 JUNK AND ABANDONED VEHICLES

3-9-1 Purpose	3-9-7 Auction or Disposal of Abandoned Vehicles
3-9-2 Definitions	3-9-8 Junk Vehicles Declared a Nuisance
3-9-3 Removal of Abandoned Vehicles	3-9-9 Notice to Abate
3-9-4 Notification of Owners and Lienholders	3-9-10 Abatement by Municipality
3-9-5 Impoundment Fees and Bonds	3-9-11 Collection of Cost of Abatement
3-9-6 Hearing Procedures	3-9-12 Exceptions
	3-9-13 Interference with Enforcement

3-9-1 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)

3-9-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:
  - a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or
  - b. A vehicle that has remained illegally on public property for more than twenty-four hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
  - d. A vehicle that has been legally impounded by order of the Mayor and has not been reclaimed for a period of ten days; or
  - e. Any vehicle parked on the street determined by the Chief of Police to create a hazard to other vehicular traffic.

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

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

4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:
  - a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
  - b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.
  - c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.
  - d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
  - e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.  
(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)
5. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

### 3-9-3 REMOVAL OF ABANDONED VEHICLES.

1. The Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The Chief of Police or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.
3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police or Mayor if the Chief of Police is unavailable, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

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

#### 3-9-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Mayor, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:
  - a. Describe the year, make, model, and serial number of the vehicle.
  - b. Describe the personal property found in the vehicle.
  - c. Describe the location of the facility where the vehicle is being held.
  - d. Inform the persons receiving notice:
    - (1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;
    - (2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
    - (3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;
    - (4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.
  - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.
  - f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.
  - g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

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

2. The owner, lienholders or any person receiving notice may, by written request received by the Mayor 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))

### 3-9-5 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 law enforcement 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.

### 3-9-6 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 et seq.

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

3-9-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Mayor shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-9-8 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 Portsmouth, 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.

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

1. Whenever the Mayor shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, law enforcement 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.

3-9-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.

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

3-9-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

3-9-12 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 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.

3-9-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 10 LITTERING PROHIBITED

1. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.
2. No person shall discard any litter within the City of Portsmouth, except as provided and approved by the City of Portsmouth by collecting and discarding such litter in approved areas or approved receptacles.
3. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.
4. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.
5. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one’s ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.
6. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste is kept in place in the manner prescribed in this Code.

#### Section      Anti-Scavenging.

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

**TITLE III COMMUNITY PROTECTION**  
**CHAPTER 11 DRUG PARAPHERNALIA**

3-11-1 Definitions  
3-11-3 Prohibition

3-11-2 Exemption

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

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

(Code of Iowa, Sec. 124.414)

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

(Code of Iowa. Sec. 124.414)

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

(Code of Iowa, Sec. 124.414)



## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-7	Right to Kill Unlicensed or Licensed Dog
4-1-2	License	4-1-8	Dangerous Animals
4-1-3	Immunization	4-1-9	Keeping a Vicious Animal
4-1-4	At Large Prohibited	4-1-10	Farm Animal Regulations
4-1-5	Animal Nuisances	4-1-11	Commercial Breeder
4-1-6	Impounding		

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

1. "Animal" means every wild, tame or domestic member of the animal kingdom other than the genus and species Homosapiens.
2. "Cat" means both male and female animals of the feline species, whether altered or not.
3. "Commercial Breeder" means a person, or business, engaged in the activity of breeding dogs and cats for sale, exchange or lease in return for consideration, or who offers to do so, whether not the animals are resided, trained, groomed or boarded by the person or business. A person who owns or harbors three (3) or less breeding males or females is not a commercial breeder.
4. The term "dogs" shall mean animals of the canine species whether altered or not.
5. "Farm animal" means every wild, tame or domestic animal kept or raised for the purpose of meat, milk, breeding, furbearing, work, recreation, sport, hobby, experimentation, or income excluding domestic dogs and cats; any and all animals of the following orders shall be deemed to be farm animals per se: ducks, geese, swine, cattle, sheep, goats, mink, skunks, doves, pigeons, hawks, falcons, chickens, turkeys, fowl—like birds, hares, rabbits, horses, ponies, asses, mules, squirrels, rats, and guinea pigs, and such exotic species as emu, ostrich, peacock, llama, pot-belly pig, and snake (all species), to name only a few commonly being raised in Iowa.
6. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
7. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.

4-1-2 RESERVED.

4-1-3 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)

4-1-4 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-5 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

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

(Code of Iowa, Sec. 657.1)

4-1-6 IMPOUNDING.

1. Any animal 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** shall be **notified** within two (2) days that upon payment of impounding fees of \$15.00/day plus cost of food and care in a reasonable amount, the animal will be returned. If the impounded animal(s) are not recovered by their owners within seven (7) days after notice, the animal shall be disposed of as provided in Section 717B.4 Code of Iowa.
3. Impounded animals may be recovered by the owner, upon proper identification, by payment of impounding fees and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-3. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

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

(Code of Iowa, Sec. 351.39)

5. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.  
(Code of Iowa, Sec 351.39)

4-1-7 RIGHT TO KILL AN UNLICENSED OR LICENSED DOG. It shall be lawful for any person to kill a dog, unlicensed, or licensed and wearing a collar with licenses tag attached, where such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.  
(Code of Iowa, Sec. 351.27)

#### 4-1-8 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.
2. Definitions. A dangerous animal is:
  - a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so.
  - b. The following are animals which shall be deemed to be dangerous animals per se:
    - i. Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
    - ii. Wolves, coyotes, and foxes;
    - iii. Badgers, wolverines, weasels, skunks and mink;
    - iv. Raccoons;
    - v. Bears;
    - vi. Monkeys, chimpanzees, and apes;
    - vii. Alligators and crocodiles;
    - viii. Scorpions; gila monsters;
    - ix. Snakes that are venomous or constrictors;
    - x. Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the

majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

- xi. Rotweiler dogs
  - xii. 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.
  - b. Staffordshire Terriers or Rottweiler dogs registered with the City Clerk within 30 days of the passage of this ordinance.

4-1-9 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.

#### 4-1-10 REGULATION OF FARM ANIMALS.

- 1. No person, firm association or corporation in the City of Portsmouth shall have in their possession or control, or keep or harbor any farm animals, as defined in Section 4-1-4, without first obtaining permit to do so from the mayor or his designee, which permit shall be issued only after payment of the required fee and after inspection of the premises by the mayor or his/her designee for compliance with the requirements of the Restricted Residence District, and the sanitation requirements of this chapter or any other applicable state or local law. A permit for the keeping of farm animals shall be in effect for one year from the date of its issuance.
- 2. Application for such permits shall be made upon forms furnished by the city.
- 3. Upon expiration, such permit may be renewed by any person, firm, association or corporation to whom it has been issued, by filing an application for a renewal thereof with the mayor or his/her designee upon forms to be provided by the city. Approval of

the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with the Restricted Residence District and amendments thereto, and the sanitation requirements of this chapter or any other applicable state or local law. Every permit so renewed shall be for a period of one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

4. Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged or otherwise confined as house hold pets within a residence, shall be exempt from the permit requirements of this section.
5. In areas designated for agricultural purposes for the adopted land use plan of the city where farm animals are kept on property that exceeds five (5) acres in total area, no permits for keeping farm animals shall be required. However, no person, firm, association, or corporation keeping or harboring farm animals in such areas shall allow the animals to be closer than seventy-five feet to any residential dwelling.

4-1-11 COMMERCIAL BREEDER. Any person or firm wishing to raise animals within the corporate city limits shall apply to the city council in writing for a Commercial Breeder's License. The annual cost of said license shall be \$50.00, renewable at the first meeting in April. The application for license shall include a description of the type(s) of animal to be raised, their approximate and maximum numbers, a site description of the area where the animals shall be located and a description of the facility or buildings the animals shall be kept. The owner shall state what actions will be taken to keep noise, odor and pestilence within reasonable levels. No animals shall be allowed 75 feet of another residence... A license will not be issued without specific action on the part of the city council to be recorded in the official city minutes.

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

**CHAPTER 1 RESERVED**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Definitions	6-1-4	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
		6-1-7	Mobile Home Hookups
		6-1-8	Mobile Home Parks - Locations

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

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

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

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

(Code of Iowa, Sec. 435.1(3))

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

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

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

(Code of Iowa, Sec. 435.1(6))

5. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner.

(Code of Iowa, Sec. 435.1(7))

All modular home structures shall be placed on a foundation system that is provided for by the State Building Code, or is recommended by the manufacturer, and which make a dwelling permanently attached to the site.

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 year(s) but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.

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

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

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement. The effective date of this Ordinance is March 4, 2013.

(Code of Iowa, Sec. 435.26)



6-1-7 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by city officials and the mobile home dealer shall pay an inspection fee. No additional permits shall be required.

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

6-1-8 MOBILE HOME PARKS – LOCATION. Mobile home parks may be located in the City of Portsmouth if provided by the Restricted Residence District. Each mobile home within the park shall be provided with its own public water and sewer connection and meter, and will be anchored to the earth in compliance with the manufacturer’s recommendation. Each mobile home shall be skirted with a suitable material to cover the space between the grade and the carriage.

**\*Editor's note. The section in parenthesis should be included at the time the section is first adopted and not during a recodification. In other words, do not add this language to Ordinances already in effect unless you know the exact date the chapter went into effect.**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

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

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

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.
2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.  
(IAC 567-69.3(1))
3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.  
(IAC 567-69.3(1))
4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.
6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.
8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
16. "Sewer" shall mean a pipe or conduit for carrying sewage.
17. "Sludge" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.
18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.
19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Portsmouth or the Superintendent's authorized deputy, agent, or representative.
20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

#### 6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the

jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.  
(Code of Iowa, Sec. 364.12(3)(f))
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.  
(Code of Iowa, Sec. 364.12(3)(f))  
(IAC 567-69.3(3))

#### 6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.
3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.
4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal

system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.
8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

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

#### 6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$70.00 dollars shall be paid to the City at the time the application is filed.

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

expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. The minimum installation of a building sewer main shall be designed in accordance with the standards provided as contained in EPA Project #C190994-02 and Snyder and Associates, Inc. Project #90-178-G.
5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.
6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.
  - a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.
  - b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

**Vitrified Clay Pipe VCP**

- (1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

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

**Extra Heavy Cast Iron Soil Pipe**

- (1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."
- (2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

**Polyvinyl Chloride (PVC)**

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

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

Minimum wall thickness:

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

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

- c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.
- d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.
- e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the

Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

- f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.
7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.
11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.
13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.



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

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

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:
  - a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
  - b. Non-payment of bills.
  - c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.
2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
  - c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

- d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.
4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
  - b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
  - c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
  - d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
  - f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, -in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
  - g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
  - h. Any waters or wastes having a pH in excess of 9.5.
  - i. Materials which exert or cause:
    - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
    - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
    - (4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.
  - j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 6-2-5(4), and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- a. Reject the wastes,

- b. Require pretreatment to an acceptable condition for discharge to the public sewers.
- c. Require control over the quantities and rates of discharge, and/or
- d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

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

- 6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.
- 7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.
- 8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.
- 9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses

are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

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

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### 6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).
3. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### 6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- 2 Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 UTILITIES - WATER SYSTEM

- |                                       |                                |
|---------------------------------------|--------------------------------|
| 6-3-1 Enforcement                     | 6-3-8 Making the Connection    |
| 6-3-2 Adoption of State Plumbing Code | 6-3-9 Excavations              |
| 6-3-3 License Required                | 6-3-10 Inspection and Approval |
| 6-3-4 Mandatory Connections           | 6-3-11 Completion by the City  |
| 6-3-5 Permit                          | 6-3-12 Meter Accuracy and Test |
| 6-3-6 Fee for Permit                  | 6-3-13 Wells                   |
| 6-3-7 Water Supply Control            |                                |

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

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

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

6-3-3 LICENSE REQUIRED. All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.

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

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

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

6-3-7 WATER SUPPLY CONTROL. Connection to the municipal system shall be completed under the supervision of the superintendent, including installation of the corporation stop, meter setting, meter, curb stop and box and service shut-off valve. The city will provide the corporation stop, meter setting, meter, and curb stop and box and service shut-off valve. The owner, or owner's plumber shall be responsible for construction of the water connection from the service main to the building.

The owner or owner's plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

6-3-8 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. A connection fee of three hundred dollars (\$300.00) for a residential or commercial water tap shall be paid to the city at the time the application is filed. The connection fee will cover the cost of the material to make the connection from the water main to the meter pit. 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 or freezing. No excavation shall be made within six (6) feet of any laid water or sewer pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

**6-3-10 INSPECTION AND APPROVAL.** All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

**6-3-11 COMPLETION BY THE CITY.** Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond required by the Plumbing Ordinance shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

**6-3-12 METER ACCURACY AND TEST.** All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of two 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 six months. If the meter is found to be accurate or slow less than two percent fast, the patron shall pay the reasonable costs of the tests.

**Compulsory Check.** Every meter shall be removed from service periodically and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of two percent shall not be returned to service until properly adjusted.

**6-3-13 WELLS.** No person within Portsmouth shall drill, construct or use a private well for potable water use within the corporate city limits.

1. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a shallow public well within the City of Portsmouth, Iowa.
  - a. Well house floor drains to ground surface - 5 feet.
  - b. Water treatment plant wastes to ground surface - 50 feet.
  - c. Sanitary and industrial discharges to ground surface - 200 feet.
  - d. Floor drains from well house to surface - none within 5 feet.
    - (1) 5-10 feet water main materials enclosed in concrete permitted.
    - (2) 10-25 feet must be water main material.
    - (3) 25-75 feet must be watertight sewer pipe.
  - e. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains.
    - (1) None permitted within 25 feet.
    - (2) If closer than 75 feet, must be water main material.
    - (3) If between 75 and 200 feet, must be watertight sewer pipe.
  - f. Sewer force mains:
    - (1) None permitted within 75 feet.
    - (2) If within 200 feet, must be water main materials.
  - g. Land application of solid waste - 200 feet.
  - h. Irrigation of wastewater- 200 feet.
  - i. Concrete vaults and septic tanks- 200 feet.
  - j. Mechanical wastewater treatment plants - 200 feet.
  - k. Cesspools and earth pits privies - 200 feet.
  - l. Soil absorption fields- 200 feet.
  - m. Lagoons - 200 feet.

- n. Chemical application to ground surface- 200 feet. Above ground chemical or mineral storage - 200 feet. On or underground chemical or mineral storage- 200 feet.
  - o. Animal pasturage - 200 feet.
  - p. Animal enclosure- 200 feet.
  - q. Animal wastes:
    - (1) Land application of solids - 200 feet.
    - (2) Land application of liquids or slurry- 200 feet.
    - (3) Storage tank - 200 feet.
    - (4) Solids stockpile- 200 feet.
    - (5) Storage basin or lagoon - 200 feet.
  - r. Earthen silage storage trench or pit- 200 feet.
  - s. Basements, pits, sumps - 10 feet.
  - t. Flowing streams or other surface water bodies - 50 feet.
  - u. Cisterns- 100 feet.
  - v. Cemeteries - 200 feet.
  - w. Private wells- 200 feet.
  - x. Solid waste disposal sites- 200 feet.
2. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a deep public well within the City of Portsmouth, Iowa.
- a. Well house floor drains to ground surface- 5 feet.
  - b. Water treatment plant wastes to ground surface - 50 feet.
  - c. Sanitary and industrial discharges to ground surface - 200 feet.
  - d. Floor drains from well house to surface - none within 5 feet.

- (1) 5-10 feet water main materials enclosed in concrete permitted.
- (2) 10-25 feet must be water main material.
- (3) 25-75 feet must be watertight sewer pipe.
- e. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains.
  - (1) None permitted within 25 feet.
  - (2) If closer than 75 feet, must be water main material.
  - (3) If between 75 and 200 feet, must be watertight sewer pipe.
- f. Sewer force mains.
  - (1) None permitted within 75 feet.
  - (2) If within 200 feet, must be water main material.
- g. Land application of solid waste - 100 feet.
- h. Irrigation of wastewater- 100 feet.
- i. Concrete vaults and septic tanks - 100 feet.
- j. Mechanical wastewater treatment plants - 200 feet.
- k. Cesspools and earth pit privies - 200 feet.
- l. Soil absorption fields- 200 feet.
- m. Lagoon - 200 feet.
- n. Chemical application to ground surface - 100 feet. Above ground chemical or mineral storage- 100 feet. On or underground chemical or mineral storage - 200 feet.
- o. Animal pasturage - 100 feet.
- p. Animal enclosure- 100 feet.
- q. Animal wastes.
  - (1) Land application of solids - 100 feet.

- (2) Land application of liquid or slurry - 100 feet.
  - (3) Storage tank - 100 feet.
  - (4) Solids stockpile- 200 feet.
  - (5) Storage basin or lagoon - 200 feet.
  - r. Earthen silage storage trench or pit - 100 feet.
  - s. Basements, pits, sumps - 10 feet.
  - t. Flowing streams or other surface water bodies - 50 feet.
  - u. Cisterns - 50 feet.
  - v. Cemeteries- 200 feet.
  - w. Private wells - 200 feet.
  - x. Solid waste disposal sites- 200 feet.
3. Proscriptions as set forth in 1. and 2. herein shall apply to all public water wells existing within the City of Portsmouth, except public water wells formerly abandoned for use by resolution of the city council.
  4. The city council shall designate each water well within the City of Portsmouth as being a "shallow well" or "deep well" for the purposes of this ordinance.
  5. The use of structures or facilities that existed prior to adoption of this code of ordinance may be continued even though such use may not conform with the regulations of this code. However, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of this code of ordinance.

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 UTILITIES - REFUSE COLLECTION

6-4-1	Definitions	6-4-6	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	Separation of Yard Waste Required
6-4-5	Collections	6-4-10	Sanitary Disposal Project Designated

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". The term "yard waste" shall mean any debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, garden waste, shrubs, etc.) which is produced as part of yard and garden development and maintenance.

6-4-2 DUTY TO PROVIDE CANS. Each person shall provide 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.

For persons owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the city.

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 Mayor, or such employee designated by the Mayor.

(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 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or placed in degradable bags, containers or packages and sent out for collection.

6-4-10 SANITARY DISPOSAL PROJECT DESIGNATED . The sanitary landfill facilities operated by the Shelby county Solid Waste Commission are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

**6-4-11 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.**



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES - BILLING CHARGES

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

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

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

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

6-5-4 BILLING, PENALTY. Utility bills shall be due **the 20th of the month following the period for which service is billed**. Payment shall be made to the City Clerk. Bills shall become delinquent after the 20th of the month in which due. **When the 20th falls on a Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.**

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

6-5-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:
  - a. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."
  - b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. If service is discontinued for nonpayment of fees and charges, or for the violation of any Ordinance, before service is restored, the amount owing plus any penalties assessed for late payment plus a fifty dollar (\$50.00) reconnection fee plus a two hundred dollar (\$200.00) deposit shall be paid to the city clerk. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

(Code of Iowa, Sec. 384.84(2))

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

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

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

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

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

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

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 of the municipal water system. Such deposit shall be equal to one hundred dollars (\$100.00). 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 RATES. Water shall be furnished at the following monthly rates per property serviced within the City limits:

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

The first 1,000 gallons	<b>\$40.00</b>
For each <b>additional</b> 1,000 gallons	<b>\$7.00</b> per thousand gallons

“Billing Account” as used in this ordinance shall mean any property served separately with potable water by the City of Portsmouth. Each connection shall be metered. The minimum water use charge shall be \$15.00 per household or business building per billing month.

6-5-9 **REFUSE COLLECTION FEES. 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, \$14.00 per month for one garbage or rubbish collection each week and \$1.50 for recycling. In the event that alley or curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.**
- 2. Commercial Rate. Rates for commercial establishments shall be established by the City Council.**

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

3. For all addresses where a utility billing is made within the city, a **\$1.50** per month recycling fee shall be charged.

6-5-10 RATE OF SEWER RENT AND MANNER OF PAYMENT.

1. Each user shall pay for the services provided by the city based on use of the treatment works as determined by water meter(s) acceptable by the city.
2. For residential contributors, monthly user charges will be based on average monthly water usage during the months of January, February and March. If a residential contributor has not established a January, February and March average, the monthly user charge shall be the median charge of all other residential users.
3. For industrial and commercial contributors, monthly user charges will be based on average monthly water usage during the current month. If a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city.
4. The minimum monthly charge for sanitary sewer service in Portsmouth shall be **\$10.00**. In addition, each contributor shall pay a user charge rate for operation, maintenance and replacement of \$4.00 per 1,000 gallons of metered water billed during the period.
5. For those contributors who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. Said surcharge shall be determined at the time of permit issuance.
6. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges a substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall be as determined by the responsible wastewater systems superintendent and approved by the City Council.
7. The user charge rates established in this article apply to all users, regardless of their location in regards to the city's treatment works.

**6-5-11 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS.** Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

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

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 STREET CUTS AND EXCAVATIONS

6-6-1 Excavation Permit Required  
6-6-2 Reserved  
6-6-3 Reserved

6-6-4 Safety Measures  
6-6-5 Backfilling and Restoration  
6-6-6 Rules and Regulations

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

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

6-6-2 **APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, 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 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 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 RESERVED.

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 a law enforcement officer 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 of Portsmouth 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
- 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

**GENERAL PROVISIONS**

6-7-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Portsmouth, 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 Portsmouth, 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 (March 4, 2013) into three or more lots, parcels, or tracts for the

**PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS**

- 6-7-12 Procedures and Submission Requirements for Plats
- 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
- 6-7-22 Final Plat
- 6-7-23 Referral Final Plat
- 6-7-24 Requirements of the Final Plat
- 6-7-25 Final Plat Attachments
- 6-7-26 Action by the Governing Body

**OTHER PROVISIONS**

- 6-7-27 Variances
- 6-7-28 Chain Subdividing

purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

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

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

(Code of Iowa, Sec. 354.9)

## DEFINITIONS

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

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

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

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

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

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

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

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

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



7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the governing body or other hiring authority.
8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.  
(Code of Iowa, Sec. 354.2(5))
10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.  
(Code of Iowa, Sec. 354.2(6) and 355.1(2))
12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.
13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.  
(Code of Iowa, Sec. 354.2(7))
16. "Governing Body" means the City Council of the City of Portsmouth, 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 (date of original Subdivision Ordinance).

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 Portsmouth, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

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

(Code of Iowa, Sec. 354.2(14))

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

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

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

32. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## IMPROVEMENTS

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

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

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

(Code of Iowa, Sec. 364.1)

1. **Streets and alleys.** All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.
2. **Roadways.** All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.
3. **Curb and Gutter.** Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans with Disabilities Guidelines (ADAAG).
4. **Sidewalks.** Sidewalks shall be required by the governing body if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer, and comply with the Americans with Disabilities Guidelines (ADAAG).
5. **Water lines.** Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.
6. **Sewers.**

- a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.
- b. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.
- c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the governing body and to the supervision of the Superintendent of public utilities.

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

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

#### MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.

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

1. Relation to existing streets.
  - a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Acreage subdivisions.

- a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
  - b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
  - c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Local streets.
- a. Local streets shall be so planned as to discourage through traffic.
  - b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.
4. Frontage streets.
- a. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  - b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
6. Street Geometrics.

- a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
  - b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
  - c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the governing body shall determine for special cases.
7. Intersections.
- a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
  - b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
  - c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.
8. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body.
9. Street grades.
- a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.
  - b. No street grade shall be less than one-half (1/2) of one (1) percent.
10. Alleys.
- a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
  - b. The width of an alley shall be twenty (20) feet.
  - c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

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

11. Blocks.

- a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.
- b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

- a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- b. Minimum lot dimensions and sizes.
  - (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. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 354.6)

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

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

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

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

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

(Code of Iowa, Sec. 354.8)

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

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the governing body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.
3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.
4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

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

6-7-23 REFERRAL FINAL PLAT. The sub-divider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare and file four (4) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the sub-divider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void

unless an extension of times is applied for and granted by the governing body. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

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

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

(Code of Iowa, Sec 354.8 and 355.8)

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:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

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

1. A correct description of the subdivision land.  
(Code of Iowa, Sec. 354.6(2))
2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.  
(Code of Iowa, Sec. 354.11(1))

3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.  
(Code of Iowa, Sec. 354.11(3))
4. A certificate from the County Treasurer that the subdivision land is free from taxes.  
(Code of Iowa, Sec. 354.11(5))
5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.
6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.  
(Code of Iowa, Sec. 354.11(2))
7. A certificate of dedication of streets and other public property.  
(Code of Iowa, Sec. 354.11(1))
8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
9. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.  
(Code of Iowa, Sec. 354.11(4))
10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.
11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the governing body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.
12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

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

(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the Governing Body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the governing body shall accept the same.

3. The passage of a resolution by the governing body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Shelby 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 restricted residence district. Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 SIDEWALK REGULATIONS

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

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

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

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
  - a. vertical separations equal to three-fourths (3/4) inch or more.
  - b. horizontal separations equal to three-fourths (3/4) inch or more.
  - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
  - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
  - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
  - f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - g. a sidewalk with any part thereof missing to the full depth.

- h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.
- 2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
- 3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-8-3 **CLEANING SNOW, ICE, AND ACCUMULATIONS.** It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

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

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

6-8-5 **LIABILITY OF ABUTTING OWNER.** As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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



6-8-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

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

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

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, 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 on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

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

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

6-8-10 RESERVED.

6-8-11 RESERVED.

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

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

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

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

(Code of Iowa, Sec. 384.38)

6-8-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property

affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

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

(Code of Iowa, Sec. 384.51)

6-8-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

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

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 9 RESERVED**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 RESTRICTED RESIDENCE DISTRICT

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

6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of Portsmouth, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, and other similar structures, except when a permit is granted in accordance with this Ordinance.

(Code of Iowa, Sec. 414.1 and 414.24)

6-10-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling. No business or occupation shall be conducted therein or in conjunction therewith whereby sales or services are made in a manner that the public served enters upon the residential property. The following are excepted: a beauty shop, conducted solely by the occupant and one person not resident on the property; music or art teacher, a rooming or boarding house with no more than two guests; and for which uses no external or internal alterations of the structure are made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.

Furthermore, each residence shall have a floor area of not less than 700 square feet, and a minimum width for any building elevation of not less than twenty-five feet (25').

All residences shall be roofed in a gables or hip style and shall include an overhang of at least twelve inches (12").

All residences shall be sided with material other than flat or corrugated sheet metal. Siding shall extend to within 6" of the ground adjacent to the structure.

All residences structures shall be placed on a foundation system that is provided for by the Uniform Building Code, 2000, or is recommended by the manufacturer, and which make a dwelling permanently attached to the site.

2. "School" is a building used for educational purposes, public or private, that is regulated by the State Department of Public Instruction as to curriculum.

3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.
4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened.

Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, nor if it is used in conjunction with or for the business of selling goods or rendering services.

5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6-10-3 DISTRICT DESCRIBED. The following restricted residence district is hereby designated and established.

All of the incorporated area of the City of Portsmouth with the following exceptions:

Main Street between Hwy 191 and 3<sup>rd</sup> Street.  
2<sup>nd</sup> Street between Highway 191 and 3<sup>rd</sup> Avenue.  
Highway 191 from Highway 59 to 4<sup>th</sup> Avenue

6-10-4 BUILDINGS PERMITTED. No buildings or other structures, except residences, schoolhouses, churches, and other similar structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within said district without first securing from the City Council a permit therefor. Permits for residences, schoolhouses, churches, and other similar structures, and for structures outside restricted residence districts, shall be applied for and are required, but shall be issued by the City Clerk if the requirements of this and other applicable City Ordinances are met, but no council permission shall be required under this Ordinance.

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

**6-10-6 SET BACK.** No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 6,000 square feet. No person shall obstruct, deface, or injure any property within the public right-of-way in any manner, without specific permission from the Mayor and City Council.

No residence or other building exempted from permit shall be located in the restricted district closer than five (5) feet to the side lot lines, and no accessory building closer than five (5) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. However, any residence, other building, or accessory building currently located closer than five (5) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. Any other building granted a permit by council shall be placed at least as far from side lot lines as the residential, school, and church related buildings. All setbacks shall be measured from the main foundation line.

**Visibility at Intersections.** In each quadrant of every street intersection there shall be designed a vision clearance triangle, bounded by the inner street lines and a line connecting them twenty-five feet (25') from their intersection. Within this triangle no sight obstructing object shall be allowed between the height of three feet (3') and ten feet (10') above the elevation of the adjacent streets. Fences, walls, hedges and other vegetation may extend up to the property line of the lot. Fences, walls, hedges and other vegetation may extend not over six feet (6') in height above the natural grade in side yards, and eight feet (8') above the natural grade in rear yards, and not over three feet (3') in height above the natural grade in the front yard.

**6-10-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS.** Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the restricted residential district only if it appears that said use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement of a building or structure that would otherwise be violative of Section 6-10-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

**6-10-8 SPECIAL PERMITS.** A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City except for buildings for residences, residential accessory

use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-10-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit.

6-10-9 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the council.

6-10-10 FEES. A permit fee of \$10.00 shall be submitted to the city clerk at the time the permit is filed.

6-10-11 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance and it shall be abated by action in the district court. Such action for abatement shall be prosecuted in the name of the municipality.

6-10-12 CERTIFYING ORDINANCE. Within fifteen (15) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the County Recorder.

(Code of Iowa, Sec. 380.11)



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 OUTDOOR FURNACES

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

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

**Definitions.** For the purposes of this Chapter, the following definitions apply:

1. **“Outdoor Furnace”** means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of burning fuel to produce heat or energy used in whole or in part as a heating system to provide heat and/or hot water to any structure.
2. **“Stack” or “Chimney”** means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.
3. **“Existing Outdoor Furnaces”** means any outdoor furnace in existence as of December 31, 2020.

**Existing Outdoor Furnaces.** Any outdoor furnace in existence on December 31 2020, shall be permitted to remain, subject to the following requirements:

1. The owner of any outdoor furnace in existence as of December 31, 2020, shall apply for and receive an outdoor furnace permit from the City Clerk by \_\_\_\_\_, 2020. If a permit application is not received for an existing outdoor furnace by \_\_\_\_\_, 2020, the outdoor furnace shall be in violation of this ordinance and must be removed.
2. Outdoor furnaces may not be operated between April 1 and October 15 of each year.
3. All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer’s specifications and instructions.
4. All outdoor furnaces shall be laboratory tested and listed to appropriate safety standards, such as UL (Underwriters Laboratories), ANSI (American National Standards Institute) or other applicable safety standards. Outdoor furnaces shall not be located less than thirty (30) feet from the nearest lot line. Outdoor furnaces shall not

be located within one hundred (100) feet from any residence not being served by the furnace.

5. Only natural, untreated wood or the manufacturer's listed fuels may be burned in any outdoor furnace. Burning any other materials in the furnace is prohibited. Trash, plastics, gasoline, rubber, naphtha, household garbage, particle board, railroad ties, pressure treated wood or other materials treated with petroleum products, leaves, paper products and cardboard are prohibited.
6. Petroleum products or chemicals shall not be used to start an outdoor furnace.
7. Every outdoor furnace shall be equipped with a stack or chimney. All stacks and chimneys must be constructed as to withstand high winds and other weather elements. In no event shall a stack or chimney extend less than twenty-five (25) feet above the ground.
8. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all of the provisions of this Chapter and any other applicable county, state or federal regulations. All provisions shall continue to apply to an outdoor furnace after a permit has been issued. No existing outdoor furnace may be moved or replaced by a new outdoor furnace.
9. All existing outdoor furnaces shall be inspected each year prior to operation.

#### Permit Applications.

1. An application for an outdoor furnace permit shall be made to the City Clerk on a form provided by the City and shall contain and/or have attached thereto the following information:
  - a. Name, address, daytime and evening telephone number of the applicant.
  - b. Address of the lot upon which the outdoor furnace is located.
  - c. A site plan indicating the location of the outdoor furnace in relation to all lot lines.
  - d. The name of the manufacturer and model number of the outdoor furnace, together with a copy of the manufacturer's installation, operation and maintenance instructions.
  - e. A description of the stack or chimney proposed to be used in connection with the outdoor furnace, including its height and a description of any guy wires or other devices to be used to support or stabilize the stack.
  - f. Such other information as the City Clerk shall require to show full compliance with

this Chapter and other ordinances of the City.

2. **Permit Fee.** The applicant shall pay an application fee for the administration and inspection of the outdoor furnace, which shall be deposited in the City's general fund. The application fee shall be set by the City Council resolution.
3. **Applicant.** The applicant for an outdoor furnace permit shall in all cases be the owner of the lot on which the outdoor furnace is to be located.
4. The City Clerk shall issue an outdoor furnace permit or deny an outdoor furnace permit application within thirty (30) days of the receipt of a fully completed application. The City Clerk shall deny any application which is not filed in conformity with this section or which proposes an outdoor furnace which would be contrary to any provisions of the ordinances of the City of Portsmouth. Any denial of an application shall provide, in writing, the reasons for such denial. If an application is denied, the permit fee shall be refunded to the applicant. A denial of an outdoor furnace permit application may be appealed, by the applicant, to the Portsmouth City Council. The appeal must be in writing and filed in the office of the City Clerk within twenty (20) calendar days after the date of the denial of the permit. The City Council will hold a hearing on the appeal within forty-five (45) days of the date that the appeal is filed with the City Clerk's office.

#### **Enforcement and Violations.**

1. Any person who violates any of the provisions of this Chapter or any of the terms and conditions of any permit, regulation or lawful order of the City made under the authority of this Chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.
2. If any outdoor furnace regulated under this Chapter is installed, constructed, moved, maintained or used in violation of this Chapter or in violation of the terms and conditions issued or made under the authority of this Chapter, a simple misdemeanor citation and/or a municipal infraction citation may be issued to remedy and/or abate the violation.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 ACCESSORY BUILDINGS AND STRUCTURES

1. No accessory building or structure shall be erected on the property more than ninety (90) days prior to the time of completion of the principal structure or use.
2. A building permit must be issued prior to construction of any accessory building or structure.
3. Accessory buildings and structures, other than a private garage, shall be limited to twelve (12) feet in height for sidewalls, and no part of the structure shall be closer than five (5) feet from the principal structure or property line, or as set forth in the Zoning Ordinance for property setbacks.
4. A private garage or accessory building or structure may not be taller than the principal structure.
5. No accessory building or structure shall be erected in any yard other than the rear yard, and the structure shall occupy less than 30 percent of the required rear yard, except for a private garage, which may occupy up to 50 percent of the required rear yard. But in no event shall more than 30 percent of the rear yard be occupied by garage, accessory building or structure.
6. Only one (1) accessory building or structure, in addition to one (1) private garage, is permitted per lot. Private garages must meet the minimum principal structure front yard and side yard setback requirements.
7. Accessory buildings and structures and garages shall be constructed of materials comparable to the principal structure and shall be of a matching or complementary color.
8. **Principal Structures.** Only one (1) principal structure may be constructed, located or erected on a single lot in any district within the City. No garage or accessory use or building may be located on a property that does not have a conforming principal structure in existence.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 BUILDING PERMITS

6-13-1	Purpose	6-13-10	Rear Yard Requirements
6-13-2	Structure Defined	6-13-11	Special Requirements for Residences
6-13-3	Permit Required	6-13-12	Variances
6-13-4	Application	6-13-13	Fences
6-13-5	Fees	6-13-14	Curb Cuts
6-13-6	Plans Required	6-13-15	Authority of City Council
6-13-7	Location of Structure	6-13-16	Permit Issued
6-13-8	Front Yard Requirements	6-13-17	Limitations on Permit
6-13-9	Side Yard Requirements		

**6-13-1 PURPOSE.** The purpose of this Chapter is to provide the City Council notice of the type of structure, the kind of construction, the location of any structure to be erected or added within the corporation, the location of any structure on any specific lot within the corporation and to provide reasonable rules for the erection, reconstruction, altering and repair of all kinds of structures.

**6-13-2 STRUCTURE DEFINED.** Anything constructed or erected with a fixed location on the ground that protrudes above the ground or surface level of a parcel of property. Structures include, but are not limited to, buildings, walls, fences, solar panels, billboards, aboveground storage tanks, and similar uses.

**6-13-3 PERMIT REQUIRED.** No structure shall be erected, reconstructed, altered or added to without first securing a permit from the City Council.

**6-13-4 APPLICATION.** All requests for a building permit shall be submitted to the City Clerk on forms supplied by the City and accompanied with the appropriate fee for such permit.

**6-13-5 FEES.** There shall be a permit fee of \$10.00 for such permit.

**6-13-6 PLANS REQUIRED.** Plans and specifications of any proposed structure shall be filed with the application for the permit.

**6-13-7 LOCATION OF STRUCTURE.** A complete showing and description of the real estate involved and the location of the structure on the real estate shall be filed with the application. The perimeter of the structure shall be staked prior to submitting an application.

**6-13-8 FRONT YARD REQUIREMENTS.** There shall be a front yard of not less than twenty (20) feet, except as follows:

1. Where a structure is to be erected on a parcel of land that is within one hundred (100) feet of existing structures on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent structures on the two sides, or

2. Where a structure is to be erected on a parcel of land that is one hundred (100) feet of an existing structure on one side only within the same block, such structure may be erected as close to the street as a line drawn from the closest front corner of that structure to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed structure is to be erected.
3. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

**6-13-9 SIDE YARD REQUIREMENTS.** No building shall be erected closer than five (5) feet to either side lot line, except in the business district where no side yard is required.

**6-13-10 REAR YARD REQUIREMENTS.** There shall be a rear yard provided for each structure of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller, except in the business district where no rear yard is required.

**6-13-11 SPECIAL REQUIREMENTS FOR RESIDENCES.** Any structure which is to be a residence for living shall meet the following special requirements.

1. A residence shall have a minimum of 1,000 square feet of livable space on the main floor.
2. All residences shall have a permanent perimeter foundation constructed of cement, concrete blocks with mortar or other permanent material approved by the City Council. All foundations shall have footings that extend below the frost line.

**6-13-12 VARIANCES.** The city council may grant a variance to sections 6-12-8, 6-12-9, and 6-12-10 where the setback requirements would cause a hardship on the property owner.

**6-13-13 FENCES.** No setback requirements shall be applicable to the construction of a fence.

**6-13-14 CURB CUTS.** No curb cut shall be constructed or permitted without first obtaining a building permit.

**6-13-15 AUTHORITY OF CITY COUNCIL.** The City Council shall have full authority to accept or reject any plans and specifications submitted.

**6-13-16 PERMIT ISSUED.** Permits shall be issued by the City Clerk in duplicate, one copy for the applicant and one copy to be retained in the City records.

**6-13-17 LIMITATIONS ON PERMIT.** In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect. All permits shall expire and be void twelve (12) months after issuance by the City Clerk. If construction is not completed a new application and fee must be submitted.

**Editor's Note: If this Ordinance is adopted be sure that the provisions of this Ordinance are consistent with the provisions of the Restricted Residence Ordinance if the City has one. Specifically, the set back and permit fee requirements should be reviewed.**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 NUMBERING OF BUILDINGS

6-14-1 Buildings to be Numbered  
6-14-2 Numbering System  
6-14-3 Mandatory Numbering

6-14-4 Type of Numbers, Size  
6-14-5 Enforcement

6-14-1 **BUILDINGS TO BE NUMBERED.** All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-14-2 **NUMBERING SYSTEM.** Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

6-14-3 **MANDATORY NUMBERING.** The placing of numbers is mandatory.

6-14-4 **TYPE OF NUMBERS, SIZE.** The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-14-5 **ENFORCEMENT.** If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 15 BUILDING CODE

6-15-1 Short Title

6-15-3 Amendments

6-15-2 Adoption

6-15-4 Right of Entry

6-15-1 SHORT TITLE. This chapter shall be known as the City of Portsmouth, Iowa, Building Code and may be cited as such, and will be referred to herein as “this chapter.”

6-15-2 ADOPTION. Pursuant to published notice and public hearing, as required by law, the building code adopted is “Uniform Building Code 2000 Edition, issued by the International Conference of Building Officials”. An official copy of the Uniform Building Code 200 Edition, issued by the international Conference of Building and a copy of this chapter is on file at the City Hall, or designated repository. This chapter may be amended by resolution duly passed and carried by the City Council.

6-15-3 AMENDMENTS. The following amendments, modification, additions and deletions to the Uniform Building Code, 2000 Edition, issued by the International Conference of Building Officials, are hereby made:

None

6-15-4 RIGHT OF ENTRY. The city clerk and his/her authorized representatives may enter any premises upon presentation of proof of authority for the purpose of inspecting any building at such time as may be reasonably necessary to protect the public health, safety and welfare.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 16 FLOODPLAIN ORDINANCE

6-16-1	Statutory Authority	6-16-11	Flood Plain Management Standards
6-16-2	Findings of Fact	6-16-12	Appointment, Duties, and Responsibilities of Flood Plain Administrator
6-16-3	Statement of Purpose	6-16-13	Flood Plain Development Permit
6-16-4	Land to Which Ordinance Applies	6-16-14	Variances
6-16-5	Rules for Interpretation of Flood Hazard Boundaries	6-16-15	Nonconforming Uses
6-16-6	Compliance	6-16-16	Penalties for Violation
6-16-7	Abrogation and Greater Restrictions	6-16-17	Amendments
6-16-8	Interpretation	6-16-18	Definitions
6-16-9	Warning and Disclaimer of Liability		
6-16-10	Severability		

#### Statutory Authority, Findings of Fact and Purpose

6-16-1 Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

#### 6-16-2 Findings of Fact

1. The flood hazard areas of the City of Portsmouth are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
2. These flood losses, hazards, and related adverse effects are caused by; (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and, (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

6-16-3 Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Portsmouth and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 6-13-2(1) with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights and velocities.

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

## General Provisions

6-16-4 Land to Which Ordinance Applies. The provisions of this ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Portsmouth. For the purpose of this ordinance, the special flood hazard areas are those areas designated as Zone A as shown on the Flood Insurance Rate Map, Community Number 190507-01, dated 9/19/75, for the City of Portsmouth, as amended, which is hereby adopted and made a part of this ordinance.

6-16-5 Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the special flood hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the mayor, or his/her designee, shall make the necessary interpretation. The city council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the mayor, or his/her designee, in the enforcement or administration of this ordinance.

6-16-6 Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

6-16-7 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

6-16-8 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

6-16-9 Warning and Disclaimer of Liability. The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not apply to areas outside the designated special flood hazard areas which will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Portsmouth or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

6-16-10 Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

6-16-11 Flood Plain Management Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:
  - a. Be consistent with the need to minimize flood damage.
  - b. Use construction methods and practices that will minimize flood damage.
  - c. Use construction materials and utility equipment that are resistant to flood damage.
  - d. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings: All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the city council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential buildings: All new or substantially improved non-residential structures shall have the lowest floor, including basement, elevated minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to the National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
  - a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this

requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided,
    - ii. The bottom of all openings shall be no higher than one (1) foot above grade,
    - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
  - b. New and substantially improved structures must be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-built homes:
- a. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
  - b. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems:
- a. On-site waste disposal systems shall be located and designed to avoid impairment to the system or contamination from the system during flooding.
  - b. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100- year flood elevation.
  - c. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-

site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 1 00-year flood elevation.

- d. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment: Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or:
    - a. Not be subject to major flood damage and be anchored to prevent movement due to flood waters, or
    - b. Be readily removable from the area within the time available after flood warnings.
  8. Flood control structural works: Flood control structural works such as levees, flood walls, etc., shall provide, at a minimum, protection from a 1 00-year flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa Department of Natural Resources.
  9. Watercourse alterations or relocations: Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion.
  10. Subdivisions: Subdivisions, including factory-built home parks and subdivisions, shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivisions, including the installation of public utilities, shall meet the applicable performance standards of this ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood.

Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory structures:
  - a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
    - i. The structure shall not be used for human habitation.
    - ii. The structure shall be designed to have low flood potential.
    - iii. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

- iv. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- v. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one (1) foot above the 100-year flood level.
- b. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational vehicles:

- a. Recreational vehicles are exempt from the requirements of Section 6-3-11(5) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - i. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - ii. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- b. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 6-3-11 (5) of this ordinance regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings: Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

## Administration

### 6-16-12 Appointment, Duties and Responsibilities of Flood Plain Administrator

- 1. The mayor or his/her designee is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
- 2. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - a. Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
  - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources for flood plain construction.

- c. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
- d. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood proofed.
- e. Notify adjacent communities/counties and the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

#### 6-16-13 Flood Plain Development Permit

1. Permit Required -A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
  - a. Description of the work to be covered by the permit for which application is to be made.
  - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - c. Indication of the use or occupancy for which the proposed work is intended.
  - d. Elevation of the 100-year flood.
  - e. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or the level to which a building is to be floodproofed.
  - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - g. Such other information as the Administrator deems reasonably necessary (eg. drawings or a site plan) for the purpose of this ordinance.
3. Action on Permit Application -The Administrator shall, within a reasonable period of time, make a determination as to whether the proposed flood plain development meets the applicable



standards of this ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the city council.

4. Construction and Use to be as Provided in Application and Plans - Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with the authorized shall be deemed a violation of this ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

#### 6-16-14Variance

1. The city council may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
  - b. Variances shall only be granted upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and (ii) such construction increases risks to life and property.
2. Factors Upon Which the Decision of the Council Shall be Based - In passing upon applications for variances, the council shall consider all relevant factors specified in other sections of this ordinance, and:
  - a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other land or downstream to the injury of others.

- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the city.
  - f. The requirements of the facility for a flood plain location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided by the Iowa Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this ordinance.
  - e. Floodproofing measures.

6-16-15 Nonconforming Uses.

1. A structure of the use of a structure or premises which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions.
  - a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.
  - b. Use or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historical Places, provided that the alteration shall not preclude its continued designation.

6-16-16 Penalties for Violation. Violations of the provisions of this ordinance or failure to comply with any of the requirements shall constitute a misdemeanor and shall be subject to the penalties provided by 1-3-1 of this code. Nothing herein contained prevents the city from taking such other lawful action as is necessary to prevent or remedy the violation.

6-16-17 Amendments. The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. no amendment, supplement, change, or modification shall be undertaken without prior approval of the Iowa Department of Natural Resources.

6-16-18 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

1. **BASE FLOOD**-The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood)
2. **BASEMENT** - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor".
3. **DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. **EXISTING CONSTRUCTION** - Any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure".

5. **EXISTING FACTORY –BUILT HOME PARK OR SUBDIVISION**-A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.
6. **EXPANSION OF AN EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. **FACTORY-BUILT HOME**- Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance, factory-built homes include mobile homes, manufactured homes and modular homes and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. **FACTORY-BUILT HOME PARK**-A parcel or contiguous parcels of land divided into two (2) or more factory-built home lots for sale or lease.
9. **FLOOD** -A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. **FLOOD ELEVATION** -The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 1 00-year flood elevation is the elevation of flood waters related to the occurrence of the 1 00-year flood.
11. **FLOOD INSURANCE RATE MAP (FIRM)** - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. **FLOOD PLAIN** - Any land area susceptible to being inundated by water as a result of a flood.
13. **FLOOD PLAIN MANAGEMENT** - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
14. **FLOODPROOFING** - Any combination of structural and non structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

15. FLOODWAY - The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.
16. FLOODWAY FRINGE- Those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. HISTORIC STRUCTURE - Any structure that is:
  - a. Listed individually in the National Register of Historical Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either; (i) an approved state program as determined by the Secretary of the Interior, or (ii) directly by the Secretary of the Interior in states without approved programs.
18. LOWEST FLOOR - The floor of lowest enclosed area in a building including a basement except when all the following criteria are met:
  - a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or opening that satisfy the provisions of Section 6-3-10 (1) of the ordinance, and
  - b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
  - d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.
20. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION- A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by the community.
21. ONE HUNDRED (100) YEAR FLOOD- A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equalled or exceeded at least once every one hundred (100) years.
22. RECREATIONAL VEHICLE -A vehicle which is:
  - a. Built on a single chassis;
  - b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light duty truck; and,
  - d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreation, camping, travel, or seasonal use.
23. SPECIAL FLOOD HAZARD AREA- The land within a community subject to a "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.
24. START OF CONSTRUCTION- Includes substantial improvements, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
25. STRUCTURE- Anything constructed or erected on the ground or attached to the ground, including, but not limited to buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. SUBSTANTIAL IMPROVEMENT-Any improvement to a structure which satisfies either of the following criteria:

- a. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure; either, (i) before the "start of construction" of the improvement; or, (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use.

The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as a "historic structure".

- b. Any addition which increases the original floor area of a building by twenty-five percent (25%), or more. All additions constructed in the city shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent (25%).

27. VARIANCE - A grant of relief by a community from the terms of the flood plain management regulations.

28. VIOLATIONS - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 17 TREES

6-17-1 Purpose	6-17-8 Diseased Trees Subject to Removal
6-17-2 Definition	6-17-9 Duty to Remove
6-17-3 Planting Restrictions	6-17-10 Inspection
6-17-4 Duty to Trim Trees	6-17-11 Removal from City Property
6-17-5 Assessment	6-17-12 Removal from Private Property
6-17-6 Trimming Trees to be Supervised	6-17-13 Commercial Tree Service
6-17-7 Removal of Trees	

6-17-1 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the city by regulating and providing for the planting, care and removal of trees.

6-17-2 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Parking" shall mean that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. "Superintendent" shall mean the Superintendent of Public Works or such other person as may be designated by the city council.
3. "Street" as used herein shall refer to that portion of a platted street which is not covered by concrete, asphalt, gravel, or otherwise used for vehicular travel.

6-17-3 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:

1. Permit. Before planting any tree on a street or parking, the owner shall obtain a permit from the office of the city clerk.
2. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line or the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
3. Spacing. Trees shall not be planted on the parking if it is less than six (6) feet in width, or contains less than thirty-six (36) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.



4. Prohibited trees. No person shall hereinafter plant in any street, any fruitbearing tree or any cotton bearing cottonwoods, poplars, boxelder, Siberian elm (Chinese elm), evergreens, silver maple, Russian Olive, mulberry trees or any thorn bearing trees.

6-17-4 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (14) feet above the surface of the street and eight (8) feet above the sidewalks.

6-17-5 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him to do so within five (5) days. If he fails to trim the trees within that time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

6-17-6 TRIMMING TREES TO BE SUPERVISED. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the city.

6-17-7 REMOVAL OF TREES. The superintendent shall remove, on the order of the city council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

6-14-8 DISEASED TREES SUBJECT TO REMOVAL Diseased, dead, dying or injured trees within the city shall be removed as follows:

1. Living or Standing Trees. Any living or standing elm tree or part thereof infected with Dutch Elm Disease fungus or which harbors any of the elm bark beetles, that is scolytus multistriatus (eichb.) or hylurgopinus rufipes (marsh.).
2. Dead Trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.
3. Injured or Dying Trees. Any tree which has been injured whether by disease or physical damage to the point that the tree will die, or its limbs might fall, shall be removed.

6-17-9 DUTY TO REMOVE. No person, firm, or corporation shall permit any tree or material as defined in 6-14-8 to remain on the premises owned, controlled or occupied by such person, firm or corporation.

6-17-10 INSPECTION. The superintendent shall inspect or cause to be inspected all premises and places within the city to determine whether any condition as defined in Section 6-14-8 exists thereon, and shall also inspect or cause to be inspected any elm trees reported or suspected to be infected with the Dutch Elm Disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.

6-17-11 REMOVAL FROM CITY PROPERTY. If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property, within the city and that the danger of other elm trees within the city is imminent, he shall immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm Disease or the insect pests or vectors known to carry such disease fungus.

6-17-12 REMOVAL FROM PRIVATE PROPERTY. If the superintendent upon inspection or examination, in person or by some qualified person acting for him, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises and that the danger to other elm trees within the city is imminent, he shall immediately notify by certified mail the owner, occupant or person in charge of such property, to correct such condition within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt thereof, the city council may cause the nuisance to be removed and the cost assessed against the property as provided in 3-2-10 of this code.

If the superintendent is unable to determine within reasonable certainty whether or not a tree on private premises is infected with Dutch Elm Disease, he is authorized to remove or cut specimens from said tree, and obtain a diagnosis thereof.

6-17-13 COMMERCIAL TREE SERVICES. Any person performing tree service, or any commercial tree service company working within the City of Portsmouth must obtain a permit from the office of the city clerk. To obtain a permit, the applicant must show proof of insurance and workman's compensation adequate for the protection of the citizens of the city and the city itself. Liability insurance shall be a minimum of \$300,000 for bodily injury and \$100,000 for property damage.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 18 PARK REGULATIONS

6-18-1 Purpose

6-18-2 Use of Drives Required

6-18-3 Fires

6-18-4 Littering

6-18-5 Camping

6-18-1 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of the park facilities. Park facilities as defined by this code include the following:

City Park; located at 4<sup>th</sup> Avenue and 2<sup>nd</sup> Street

(Code of Iowa, Sec. 392.1)

6-18-2 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or lead any horse, in any portion of the park except upon the established drives or roadways therein or such other places as may be officially designated by the city.

6-18-3 FIRES. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is immediately used by some other party.

6-18-4 LITTERING. No person shall place, deposit, or throw any waste refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

6-18-5 CAMPING. No person shall camp in any portion of a park.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 19 CORPORATE LIMITS**

6-19-1 CORPORATE LIMITS DESCRIBED. The corporate limits of the City of Portsmouth are contained in Cass Township, Shelby County, Iowa, as follows:

All of the Northeast Quarter of the Southeast Quarter of Section 17, Township 79 North, Range 40 West, and

All of the Southeast Quarter of the Southeast Quarter of Section 17, Township 79 North, Range 40 West, and

All of the Southeast Quarter of the Northeast Quarter of Section 17o, Township 79 North, Range 40 West, and

All of the Northwest Quarter of the Southwest Quarter of Section 16, Township 79 North, Range 40 West, and

All of the Southwest Quarter of the Southwest Quarter of Section 16, Township 79 North, Range 40 West.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 20 DANGEROUS BUILDINGS

6-20-1 Enforcement Officer	6-20-5 Conduct of Oral Hearing
6-20-2 General Definition of Unsafe	6-20-6 Posting Signs
6-20-3 Unsafe Building or Structure	6-20-7 Right to Demolish Building or Structure
6-20-4 Written Notice to Owner of Building or Structure	6-20-8 Assessment of Costs

6-20-1 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this Chapter.

6-20-2 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence or abandonment or otherwise, are, for the purposes of this Chapter, unsafe buildings or structures. All unsafe buildings or structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure as set forth in this Chapter.

(Iowa Code §657A.1 & 364.12(3)(a))

6-20-3 UNSAFE BUILDING OR STRUCTURE. An "unsafe Building or Structure" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever a building or structure, or any portion thereof, because of:
  - a. Dilapidation, deterioration, or decay;
  - b. faulty construction;
  - c. the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
  - d. the deterioration, decay or inadequacy of its foundation; or
  - e. any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it was constructed or being utilized.
3. Inadequate Maintenance of a Building or Structure. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, neglect or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, neglect or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned Buildings or Structures. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six ( 6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6-20-4 WRITTEN NOTICE TO OWNER OF BUILDING OR STRUCTURE. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building or structure as defined in this Chapter, the enforcement officer shall give to the owner of the building or structure written notice listing the specific defects. This Written Notice may require the owner, person or persons in charge of the building or structure, within 48 hours or such reasonable time as the circumstances may require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof. All such work shall be completed within 90 days from the date of the Written Notice, unless otherwise agreed to by the enforcement officer. If necessary, such Written Notice shall also require the building, structure or portion thereof to be vacated immediately and not reoccupied until the required repairs and improvements are completed and inspected and approved by the enforcement officer.

(Iowa Code §356.12(3(h))

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

6-20-5 CONDUCT OF ORAL HEARING. If requested by the owner, the City Council shall schedule and conduct an oral hearing in accordance with the following:

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

6-20-6 POSTING SIGNS. The enforcement officer shall post at each entrance to such building a notice to read as follows: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF PORTSMOUTH." The notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer. No person shall enter the building or structure except for the purpose of making required repairs or demolishing the building or structure.

6-20-7 RIGHT TO DEMOLISH BUILDING OR STRUCTURE. If the owner of the building or structure fails, neglects or refuses to comply with the Written Notice to repair, rehabilitate, demolish, remove the building or structure or the portion thereof, the City Council may order the owner of the building or structure prosecuted for violating the provisions of this Chapter and may order the enforcement officer to proceed with the work specified in the Written Notice. A statement of the cost of such work shall be transmitted to the City Council.

(Iowa Code §364.12 (3)(h))

6-20-8 ASSEMENT OF COSTS. Costs incurred by the City under Section 6-17-7 of this Chapter shall be paid out of the City treasury. Such costs shall be charged to the owner of the building or structure involved and levied as a special assessment against the land on which the building or structure is located. The special assessment shall be certified to the County Treasurer for collection in a manner as provided for other taxes.

(Iowa Code §364.12(3)(h))

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 1 RESERVED**



**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 2 RESERVED**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 3 RESERVED**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 4 RESERVED**

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 5 TELEPHONE FRANCHISE

AN ORDINANCE GRANTING TO GENERAL TELEPHONE COMPANY OF THE MIDWEST, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO ACQUIRE, CONSTRUCT, RECONSTRUCT, MAINTAIN, EXTEND AND OPERATE IN, UPON, THROUGH, OVER, UNDER, ALONG AND ACROSS THE PUBLIC STREETS, ALLEYS, HIGHWAYS AND OTHER PASSAGEWAYS OR PUBLIC GROUNDS OF OR IN THE CITY OF PORTSMOUTH, IOWA, THE LINES, POLES, WIRES, STUBS, ANCHORS, CABLES, VAULTS, LATERALS, CONDUITS AND OTHER FIXTURES, EQUIPMENT AND FACILITIES CONSTITUTING A TELEPHONE PLANT OR SYSTEM NECESSARY OR CONVENIENT FOR SUPPLYING TELEPHONE SERVICE OR TELECOMMUNICATION BY TELEPHONE OR OTHER ELECTRIC DEVICE, AND FOR CONDUCTING A GENERAL TELEPHONE AND TELECOMMUNICATION BUSINESS, LOCAL AND LONG DISTANCE, IN AND ABOUT SAID MUNICIPALITY FOR A TERM OF TWENTY-FIVE YEARS; PRESCRIBING THE CONDITIONS OF THE GRANT, AND PROVIDING FOR THE PROTECTION THEREOF.

SECTION 1. General Telephone Company of the Midwest, a corporation, its successors and assigns (hereinafter referred to as the "Grantee"), is hereby granted a franchise for a period of twenty-five (25) years from the effective date of this ordinance to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, through, over, under, along and across the public streets, alleys, highways and other passageways of public grounds of or in the corporate limits of the City of Portsmouth, Iowa (hereinafter referred to as the "Municipality"), as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the municipality, to adjacent rural areas and to the public at large telephone and telecommunications service, local and long distance, and telecommunication by telephone or other electrical signals, and for the conduct of a general telephone and telecommunications business therein.

SECTION 2. Grantee's rights and privileges in the public ways and grounds of the municipality shall be exercised as follows:

1. Locations of its existing systems are hereby approved; changes of locations, additions or extensions thereto affecting public grounds or ways shall be under the supervision of Municipality's street committee or other such officer or officers as may be designated by the Mayor and Council for that purpose.
2. The installations of Grantee shall be so placed and the servicing and operation thereof so performed as to not unreasonably interfere with ordinary travel on the public ways or with ingress to or egress from public or private property.
3. Grantee may make excavations in public grounds or ways, and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.

4. Grantee shall permit Municipality to attach to its poles its fire and/or police wires and apparatus incident thereto - such attachments to be made under the direction and supervision of Grantee and so made and maintained as not to interfere with Grantee's use of said poles.

SECTION 3. Grantee shall accommodate public and private necessity to move along or across public ways or grounds of the Municipality vehicles or structure, other than parade components, of such height or size as to interfere with its poles and/or wires erected hereunder and shall temporarily remove or adjust the same to permit such passage provided:

1. Written notice thereof shall be served upon Grantee's agent or manager at Grinnell, Iowa, not less than forty-eight (48) hours in advance of the time set for the proposed passage;
2. Grantee be paid in advance the actual cost of such accommodation.

SECTION 4. Grantee shall indemnify Municipality against loss from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

SECTION 5. It shall be unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon. A violation of this section shall constitute a misdemeanor and be punishable by a fine of not more than one hundred dollars or imprisonment in jail not to exceed thirty days.

SECTION 6. Ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. A determination that any part of this ordinance is invalid shall not affect remaining portions of provisions hereof.

SECTION 8. Grantee shall pay the costs of publishing this ordinance and of conducting the election thereon required by law.

SECTION 9. This ordinance shall become effective:

1. Upon its approval by a majority of the legal electors of the Municipality voting thereon;
2. The publication thereof required by law;
3. Grantee's written acceptance of same filed with the City Clerk; and
4. Grantee's payment of the costs of the election, including costs of notice.

(Editor's Note: Ordinance #183-01, granting a franchise to General Telephone of the Midwest was adopted September 13, 1983, an election was conducted and carried on October 18, 1983, and the ordinance was published on November 7, 1983.

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 6 RESERVED**

## **TITLE VII SPECIAL ORDINANCES**

### **CHAPTER 7 LOCAL OPTION SALES AND SERVICE TAX**

7-7-1 Tax Rate

7-7-2 Revenue Allocation

7-7-1 TAX RATE. A tax rate of one percent (1%) shall be imposed in conformance with Chapter 422B of the Code of Iowa upon local sales and services in the City of Portsmouth

7-7-2 REVENUE ALLOCATION. The revenues from the local sales and service tax are to be allocated in the City of Portsmouth, Iowa as follows:

100% Streets and infrastructures.