

RESOLUTION 2022-15

ADOPTING A SUPPLEMENT TO THE PEOSTA CODE OF ORDINANCES

WHEREAS, the City of Peosta Iowa, has adopted the Code of Ordinances of the City of Peosta Iowa 2019 and since adoption this Code has been amended by subsequent ordinances adopted in accordance with Iowa law; and

WHEREAS, Iowa Code Section 380.8 provides that the code may be maintained by compiling at least annually a supplement to the code of ordinances consisting of all new ordinances and amendments to ordinances which became effective during the previous year and adopting the supplement by resolution or by adding at least annually new ordinances and amendments to ordinances to the code of ordinances itself; and

WHEREAS, a city which does not maintain its city code must compile a code of ordinances every five years; and

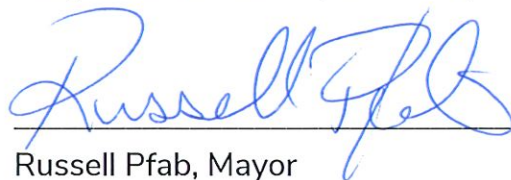
WHEREAS, it is most efficient to maintain the Peosta Code of Ordinances by providing annual supplements and the 2022 supplement containing all changes and amendments adopted since the 2021 code was adopted through September 14, 2021 has been prepared and presented to the Peosta City Council for adoption.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Peosta Iowa, as follows:

Section 1. The 2022 Supplement to the Code of Ordinances of Peosta Iowa is hereby adopted.

Section 2. The City Clerk is directed to provide a copy of the Supplement to all persons holding an official copy of the Code of Ordinances of the City of Peosta Iowa 2019.

Passed and approved by the City Council of Peosta, Iowa this 8th day of March, 2022.


Russell Pfab, Mayor

Attest:


Karen Snyder, City Clerk

PEOSTA CODE OF ORDINANCES

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

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CODIFIED BY: EAST CENTRAL INTERGOVERNMENTAL ASSOCIATION
7600 COMMERCE PARK
DUBUQUE, IOWA 52002

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TITLE I GENERAL PROVISIONS

CHAPTER 1 GENERAL PROVISIONS

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

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:

(Amended during 2010 codification)

1. "Building" means any man-made structure permanently affixed to the ground.
(ECIA Model Code Amended in 2011)
2. "Chief of Police" means Peosta Police Officer;
3. "City" means the City of Peosta, 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;
4. "Clerk" means Clerk-Treasurer;
5. "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;
6. "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;
7. "County" means the County of Dubuque, Iowa;
8. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
(ECIA Model Code Amended in 2010)
9. "Fiscal Year" means July 1 to June 30;

10. "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;

11. "May" confers a power;

12. "Month" means a calendar month;

13. "Must" states a requirement;

14. "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";

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

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

17. "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;

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

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

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

21. "Property" includes real and personal property;

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

23. "Shall" imposes a duty;

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

25. "State" means the State of Iowa;

26. "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;

27. "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;

28. "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;

29. "Written" includes printed, typewritten, or electronically transmitted such as facsimile or electronic mail;

30. "Year" means a calendar year;

31. 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;

32. 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 and all proceeds under it 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 Peosta Municipal Code of 2003 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)

(Ord. 03-04, Passed September 9, 2003)

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.

(ECIA Model Code 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 Peosta, 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 Peosta, Iowa, is hereby amended by adding a section, to be numbered _____, which said section reads as follows: ..." The new section shall then be set out in full as desired.

(ECIA Model Code Amended in 2010)

TITLE I GENERAL PROVISIONS

CHAPTER 2 RIGHT OF ENTRY

1-2-1 Right of Entry

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

TITLE I GENERAL PROVISIONS

CHAPTER 3 PENALTY

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

1-3-3 Scheduled Fines

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

(Code of Iowa, Sec. 903.1(1)(a))
(Amended during codification)
(ECIA Model Code Amended in 2008)
(ECIA Model Code Amended in 2009)
(ECIA Model Code Amended in 2010)
(ECIA Model Code Amended in 2020)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)
(Ord. 03-04, Passed September 9, 2003)

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 Peosta, 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 Peosta, 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 Peosta.

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 during codification)

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.

(Ord. 03-04, Passed September 9, 2003)

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.

(Amended during 2010 codification)

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.

(Amended during 2010 codification)

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 not less than \$65.00 but not to exceed \$625.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.

(ECIA Model Code Amended in 2017)

(ECIA Model Code Amended in 2020)

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

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

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

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

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

1-4-3 FORM OF NOTICE OF HEARING.

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

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

and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

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

1-4-5 CONDUCT OF HEARING.

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

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

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

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

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

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

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

7. Official notice.

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

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

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

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

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

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

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

1-4-6 METHOD AND FORM OF DECISION.

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 1 CITY CHARTER

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

2-1-1 **PURPOSE.** The purpose of this Ordinance is to provide for a charter embodying the government existing on May 22, 1975.

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

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

(Code of Iowa, Sec. 372.4)

2-1-4 **POWERS AND DUTIES.** The City Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Peosta, Iowa.

(Code of Iowa, Sec. 376.2)

2-1-5 **NUMBER AND TERM OF CITY COUNCIL.** In conformance with the 2003 general election and effective with the November 2005 general election, the City Council shall consist of five (5) City Council members elected at large. The Council members will serve four (4) year staggered terms.

(Code of Iowa, Sec. 372.4)

2-1-6 **TERM OF MAYOR.** In conformance with the November 2003 general election and effective with the November 2005 general election, the Mayor is elected for a term of four (4) years.

(Code of Iowa, Sec. 372.4)

2-1-7 **COPIES ON FILE.** The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

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

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

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint the Mayor pro tempore.

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

2-2-3 TERMS OF APPOINTIVE OFFICERS. The appointive officers of the City shall be appointed to and removed from office by the Council.

(Ord.2016-03, Passed April 12, 2016)

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

(ECIA Model Code Amended in 2014)

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

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

(ECIA Model Code Amended in 2014)
(Amended during 2019 codification)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 2A CITY ADMINISTRATOR

2-2A-1 Office Created
2-2A-2 Compensation
2-2A-3 Duties Generally

2-2A-4 Residency Requirement
2-2A-5 Bond

2-2A-1 OFFICE CREATED. There is hereby created the office of City Administrator. The office shall be filled by a resolution adopted by majority vote of the Council. The person appointed shall hold office at the discretion of the Council and shall be subject to removal by a resolution adopted by a majority vote of the Council. The qualifications for the position shall include competency through education or experience to perform the duties placed upon the Administrator.

2-2A-2 COMPENSATION. The compensation for the City Administrator, including expenses shall be in an amount and in the form as may from time to time be fixed by Council by resolution. The Council is hereby authorized, in its discretion, to enter into employment contracts with the City Administrator as may be necessary for his or her employment.

2-2A-3 DUTIES GENERALLY. The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All City departmental administration requiring the attention of the Council shall be brought before the Council by the Administrator. Council involvement in administration initiated by the Council must be coordinated through the Administrator. A specific job description for the position of City Administrator shall be adopted by separate resolution of the Council and may be changed from time to time as may be warranted. The duties of the Administrator include the following:

1. Supervise enforcement and execution of City laws and assure resolutions, ordinances, laws and Council directives and operational policies are enforced and executed, or referred to the proper official for compliance.

2. Attend meetings of the Council, unless excused by the Mayor.

3. Recommend to the Council measures necessary or expedient for good government and welfare of the City, including evaluation, development and updating operating procedures and policies.

4. Provide general supervision and direction for the administration of City government to expedite efficient administration of City's business.

5. Supervise the performance of contracts for work to be done for the City, and all purchases of material and supplies; ensure that material and supplies are received and are of the quality and specification called for by the contract, and consult with department heads with reference to said contracts.

6. To direct the purchasing of all commodities, materials, supplies, capital outlay and services for all departments of the City that have been budgeted and appropriated by appropriate resolution of the Council and to enforce a program to determine that such purchases are received and are of the quality and charter called for in the order.

7. Cooperate and advise present or future administrative agencies, boards or commissions which are responsible to the Mayor and Council.

8. Together with the Clerk, communicate and keep the Council fully informed of the condition of City departments, including their financial management, progress, budgets, background or historical information, future needs, goals and objectives in language and format for public consumption.

9. Introduce new and approved methods for the elimination of wasteful practices following modern municipal procedures and law requirements.

10. Perform administrative duties designated by resolution of the Council.

11. Advise the Council on participation in programs and policies with other government political subdivisions, including city, county, state or federal entities, and/or which may be affected by court decisions, liability or other related matters and suggest and coordinate City grant proposals.

12. Participate in public relations and public information activities and programs to keep the public informed through speeches, attending meetings and attending social gatherings, and provide information to the media.

13. Provide to the Council periodic itemized financial reports in writing concerning current and completed projects.

14. Prepare and administer city's operating budget.

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

16. Order the abatement of nuisances at City expense.

17. Supervise and direct the official conduct of all officers, departments and employees of the City.

18. Recommend the hiring or discharging of all employees of the City. This shall not include employees appointed by the Mayor or Council under other ordinances.

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

20. Serve as City liaison with local economic development groups.

21. Administer and enforce the City's Zoning Ordinance.

22. Perform such other duties as the Council may direct.

2-2A-4 RESIDENCY REQUIREMENT. The City Administrator shall become a resident of the City of Peosta, and continued residency in the City is a requirement for continued employment with the City.

2-2A-5 BOND. The City Administrator shall be bonded for the performance of all duties in favor of the City, in an amount to be determined by the Council by resolution, but in no event shall the bond be less than ten thousand dollars (\$10,000). The City shall pay the cost of the bond.

(Ord 2020-02, Passed February 11, 2020)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

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

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

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

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

(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.

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

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

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

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may sign, veto, or take no action on an Ordinance, amendment or resolution passed by the City Council. If the Mayor vetoes a measure, the Mayor must explain in writing the reason for such veto to the City Council members, if said action is taken within thirty days of the veto. If the Mayor takes no action on the measure, a resolution becomes effective fourteen

(14) days after the date of passage and an ordinance or amendment becomes law when published, but not sooner than fourteen (14) days after the day of passage, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.5 and 380.6(2))
(Ord. 03-04, Passed September 9, 2003)

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 employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

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

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

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

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

(Ord. 03-04, Passed September 9, 2003)

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

1. The Clerk-Treasurer shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, 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))
(ECIA Model Code Amended in 2014)

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

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

3. The Clerk-Treasurer shall cause to be posted either the entire text or a summary of all Ordinances and amendments enacted by the City. The Clerk-Treasurer shall authenticate all such measures except motions with said Clerk-Treasurer's signature certifying the time and place of posting when required.

(Code of Iowa, Sec. 380.7(1) and (2))
(Ord. 03-04, Passed September 9, 2003)

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

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

(Code of Iowa, Sec. 384.20)

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

(Ord. 03-04, Passed September 9, 2003)

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

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

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

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

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

16. The Clerk-Treasurer shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk-Treasurer's control as it may be necessary to such officer in the discharge of the duties of the municipal officer. The Clerk shall furnish a copy of any record, paper or public document under the control of the Clerk, which is not a "confidential record" as defined under Iowa Code Section 22.7, to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the municipal corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

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

(ECIA Model Code Amended in 2020)

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

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

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

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

19. The Clerk-Treasurer shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or

permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

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

29. The Clerk-Treasurer shall prepare a receipt in duplicate for all cash funds received.
The

Clerk-Treasurer on behalf of the municipality shall specify date, from whom and for what purposes received.

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

(Ord. 03-04, Passed September 9, 2003)

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

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

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

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

2-3-7 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. If requested, the City Attorney shall attend every regular meeting 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 not appear on behalf of any municipal office or employee before any court or tribunal for the purely private benefit of said officer or employee. 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.

2-3-8 POWERS AND DUTIES OF THE POLICE CHIEF. The duties of the Police Chief shall be as follows:

(Code of Iowa, Sec. 372.13(4))
(Amended during 2019 codification)

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

~~(ECIA Model Code Amended in 2014)~~
(ECIA Model Code Amended in 2020)

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

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

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

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

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

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

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

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

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

(ECIA Model Code Amended in 2014)

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

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

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

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

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

TITLE II POLICY AND ADMINISTRATION

CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

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

2-4-3 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$60.00 for each meeting of the City Council.

(Code of Iowa, Sec. 372.13(8))
(Ord. 2012-05, Passed June 26, 2012)

2-4-2 MAYOR. The Mayor shall receive \$75.00 for each meeting of the City Council.
(Code of Iowa, Sec. 372.13(8))

2-4-3 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))
(Ord. 01-05, Passed October 24, 2001)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 5 CITY FINANCE

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

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

(Code of Iowa, Sec. 384.16)

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

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

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

2. Not less than 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 hearing, the Clerk-Treasurer shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk-Treasurer and at the City library, if any, or at three places designated by Ordinance for posting notices.

(Ord. 03-04, Passed September 9, 2003)
(Amended during codification)
(ECIA Model Code Amended in 2012)
[Code of Iowa, Sec. 384.16(2)]
(ECIA Model Code Amended in 2014)

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

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

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

2-5-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July 1 and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

2-5-3 RESERVED.

(ECIA Model Code Amended in 2014)

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

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

(Code of Iowa, Sec. 384.20)

2-5-5 ANNUAL REPORT. Not later than December 1 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)

(Ord. 03-04, Passed September 9, 2003)

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

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

2-5-7 RESERVED.

(ECIA Model Code Amended in 2014)

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

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

2-5-9 ACCOUNTING. The Clerk-Treasurer shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk-Treasurer shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk-Treasurer
(Code of Iowa, Sec. 384.20)

2-5-10 BUDGET ACCOUNTS. The Clerk-Treasurer shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or state law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-5-11 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk-Treasurer shall set up in the accounting records but the Clerk-Treasurer shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

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

(ECIA Model Code Amended in 2020)

TITLE II POLICY AND ADMINISTRATION

CHAPTER 6 POSTING

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

2-6-1 **PURPOSE.** Whereas there is no newspaper published within the corporate limits of the City of Peosta, and publications of notice of elections, Ordinances and amendments may be made by posting in three public places which have been permanently designated by Ordinance.
(Code of Iowa, Sec. 362.3(2))

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

- City Hall (7896 Burds Road)
- Peosta Post Office (8554 Kapp Drive)
- Dubuque County Library/NICC-Peosta Branch (10250 Sundown Road)

The City Clerk-Treasurer is hereby directed to promptly post all Ordinances, amendments, and City Council actions after passage. The City Clerk is directed 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 as required pursuant to Section 362.3 (Iowa Code) or as otherwise required by law.

(Code of Iowa, Sec. 380.7)
(Ordinance 2012-01, Passed February 28, 2012)
(ECIA Model Code Amended in 2020)

2-6-3 **REMOVING NOTICE, 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.

(Ord. 03-04, Passed September 9, 2003)

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.

1. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to a person other than the person's spouse, or who commits a

sex act in the presence or view of a third person, if the person does so to arouse or satisfy the sexual desires of either party and the person knows, or reasonably should know, that the act is offensive to the viewer.

(Code of Iowa, Sec. 709.9)

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

(Ord. 03-04, Passed September 9, 2003)

(ECIA Model Code Amended in 2020)

3-1-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly.

(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.

(Ord. 03-04, Passed

September 9, 2003)

5 Placing debris on streets. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Ord. 05-02, Passed June 14, 2005)

3-1-5 PUBLIC SAFETY AND HEALTH.

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

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

(Code of Iowa, Sec. 724.4)

(Amended during codification)

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, fireworks, and missiles.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, revolver, or firearm of any description, without first having obtained permission in writing from the Mayor, unless the person doing the same is an officer acting within the duties of his or her office. No person, firm, or corporation shall 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 Police Officer, 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. It is unlawful for any person to willfully or carelessly or negligently throw any stick, stone, or other missile, whereby any person may or shall be injured or struck, or any window glass broken, or other property damaged, injured or destroyed.

f. It is unlawful for any person to discharge or throw any missile of any character from or by the use of any air gun, bow and arrow, slingshot, or from or by the use of any other thing or device.

g. 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.

(Ord. 03-04, Passed September 9, 2003)

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.

(Ord. 03-04, Passed September 9, 2003)

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.

(Ord. 03-04, Passed September 9, 2003)

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 364.12)

(Ord. 03-04, Passed September 9, 2003)

14. Littering Prohibited.

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

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

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

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

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

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

(ECIA Model Code Amended in 2017)

3-1-6 PUBLIC PROPERTY.

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

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

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

(Code of Iowa, 364.12(2))

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

8. 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)

(Ord. 03-04, Passed September 9, 2003)

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

(Code of Iowa, Sec. 716.1)

10. 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)

(Ord. 03-04, Passed September 9, 2003)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. Weeds. Any condition relating to weeds which is described as a nuisance in the Peosta Municipal Code of Ordinances or under state law. 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. Any condition related to weeds described or defined as a nuisance under the Code of Iowa or the City Municipal Code.

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

(Ord. 03-04, Passed September 9, 2003)

(ECIA Model Code Amended in 2017)

m. Trees infected with Dutch elm disease.

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

n. Reserved.

(ECIA Model Code Amended in 2020)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 657.2)

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

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

s. 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 basins not maintained in an appropriate manner so as to allow its proper function.

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

u. Reserved.

(ECIA Model Code Amended in 2020)

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

w. 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; any evolved cesspool or septic tanks which does not comply with the Dubuque County Department of Health regulation.

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

y. Dangerous buildings or structures.

z. Abandoned buildings.

aa. 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.

bb. 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 Peosta Municipal Code of Ordinances.

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

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

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

ff. Reserved.

(ECIA Model Code Amended in 2020)

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

hh. 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.

ii. The use of amplified sound creating a disturbance or annoyance to others and can be plainly heard 100 feet from the source of the amplified sound.

jj. 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.

kk. The erection, excavation, demolition, alteration, repair or construction of any building or other property between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays, and holidays, except in the case of an emergency of a public health and safety nature, with the approval of the City.

ll. 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.

mm. 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.

nn. Reserved.

(ECIA Model Code Amended in 2020)

oo. 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.

pp. 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.

qq. 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.

rr. Reserved.

(ECIA Model Code Amended in 2020)

ss. 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.

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

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

(ECIA Model Code Amended in 2017)

(ECIA Model Code Amended in 2020)

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)

(ECIA Model Code Amended in 2017)

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 line upon public streets, including the maintenance of trees as provided in Title VI, Chapter 18 – Trees.

(Ord.2014-03, Passed July 22, 2014)

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

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

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)

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

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

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

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

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

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

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

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

(ECIA Model Code Amended in 2017)

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

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

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

keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk-Treasurer, 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-Treasurer shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk-Treasurer shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

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

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

(Code of Iowa, Sec. 364.13)

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

(Code of Iowa, Sec. 364.12A, 657A.1, 657A.10a)

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)

TITLE III COMMUNITY PROTECTION

CHAPTER 3 TRAFFIC CODE

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

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

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

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

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

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

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

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

7. "School District" means Burds Road between Elm Ridge and 7896 Burds Road; and Peosta Street between Kapp Drive and Enterprise Drive.
(Ord. 05-04, Passed July 12, 2005)

8. "City Streets" means all streets within the city limits except for those located in the School District.
(Ord. 05-04, Passed July 12, 2005)

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 Public Safety. A copy of this report shall be filed with the Police Officer. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

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

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-4 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 certified law enforcement officers of the City, County, or State. The certified 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, the certified law enforcement officers may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Members of the Centralia/Peosta Fire Department may direct or assist the police in directing traffic there at or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-5 VIOLATION OF REGULATIONS. Any person who willingly fails or refuses to comply with any lawful order of a Peace Officer or direction of a Fire Department Officer during a fire, or who shall fail to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this chapter. These sections of the code of Iowa are adopted by reference and are as follows:

1.	321.17	Operating non-registered vehicle
2.	321.20B	Failure to prove security against liability (Non-accident related)
3.	321.20B	Failure to prove security against liability (Accident related)
4.	321.25	Improper use of registration card

5.	321.32	Fail to carry registration card
6.	321.34	Registration violation
7.	321.37	Fail to display registration plate
8.	321.38	Fail to maintain registration plate
9.	321.41	Fail to give notice of address/name change
10.	321.45	Failure to transfer title
11.	321.46	Violation of new title and registration upon transfer to new owner
12.	321.47	Transfers by operation of law
13.	321.48	Violations of title—vehicles acquired for resale
14.	321.52	Violations of title—out-of-state sale, junked, dismantled, wrecked or salvage vehicles
15.	321.54	Registration required/certain non-resident carriers
16.	321.55	Registration required/other non-resident carriers
17.	321.57	Violation of special plate requirements
18.	321.62	Special plates - records violation
19.	321.67	(1)Failure to deliver certificate of title upon sale of vehicle
20.	321.67	(2)Failure to acquire certificate of title upon purchase of vehicle
21.	321.91	Abandonment of a motor vehicle
22.	321.95	Failure to maintain motor vehicle records
23.	321.98	Operation w/o registration
24.	321.99	Improper use of registration
25.	321.104	(1)Operation with cancelled title or suspended or revoked registration
26.	321.104	(2)Failure to obtain Mfg's or importer's certificate
27.	321.104	(3)Failure to surrender plates, title or registration
28.	321.104	(4)Failure to deliver title as required
29.	321.104	(5)Penal offenses against title law
30.	321.104	(6)Improper transfer of mobile home or mfg. housing
31.	321.115	Improper use of antique plates
32.	321.115A	Replica vehicle/street rod registration violation (effective 07-01-09)
33.	321.174	Failure to have valid license or permit while operating a motor vehicle
34.	321.174A	Operation of motor vehicle with expired license
35.	321.178	(2)(a) Use of electronic communication device while driving (warning only until 6-30-11)
36.	321.180	Violation of instruction permit limitation
37.	321.180B	Violation of graduated drivers license conditions
38.	321.180B	(6A)(a) Use of electronic communication device while driving (warning only until 6-30-
39.	321.193	Violation of conditions of restricted license
40.	321.194	Violation of conditions of minor's school license
41.	321.194	(1)(c) use of electronic communication device while driving (warning only until 06-30-11)
42.	321.216	Unlawful use of license
43.	321.216B	Misuse of license or ID card to acquire alcohol
44.	321.216C	Misuse of license or ID card to acquire tobacco
45.	321.219	Permitting unauthorized minor to drive
46.	321.220	Permitting unauthorized person to drive
47.	321.229	Fail to comply with order of peace officer
48.	321.231	Fail of caution by driver of emergency vehicle
49.	321.232	Radar jamming devices
50.	321.234	(3,4)Failure to observe seating requirements
51.	321.234A	ATV violation
52.	321.235A	Imp. op/Elec. Personal Mobile Assististive Dev.
		LOCAL ORDINANCE
53.	321.247	Unlawful golf cart operation
54.	321.256	Fail to obey traffic control device
55.	321.257	(2a)Vehicles fail to respond to steady red signal
56.	321.257	(2a)Pedestrians and bicyclist failing to stop

57.	321.257	(2b)Vehicles fail to respond to yellow caution signal
58.	321.257	(2b)Pedestrians fail to respond to yellow caution signal
59.	321.257	(2d)Fail to yield to pedestrian in crosswalk under green arrow
60.	321.257	(2e)Fail to obey flashing red stop signal
61.	321.257	(2f)Fail to respond to flashing yellow caution signal
62.	321.257	(2g)Pedestrians failure to obey "Don't Walk" Light
63.	321.257	(2h)Fail to yield to pedestrian within intersection
64.	321.275	(1-7)Motorcycle and motorized bike violation
65.	321.275	(8) Failure to display safety flag
66.	321.276	Use of electronic communication device while driving (warning until 06-30-11)
67.	321.277A	Careless driving
68.	321.281	(1)Steer unreasonably close to bicyclist
69.	321.281	(2)Project object or substance at bicyclist
70.	321.284	Open container-drivers >21 YOA (for drivers under 21 YOA refer to Section 123.47)
71.	321.284A	Open container-passengers >21 YOA (for passengers under 21 YOA refer Section 123.47)
72.	321.285	EXCESSIVE SPEED-ZONES 55 MPH OR LESS
73.		(1 thru 5 over)
74.		(6 thru 10 over)
75.		(11 thru 15 over)
76.		(16 thru 20 over)
77.		(20 mph over + \$5.00 each mile)
78.	321.285	EXCESSIVE SPEED-ZONES GREATER THAN 55 MPH
79.		(1 thru 5 over)
80.		(6 thru 10 over)
81.		(11 thru 15 over)
82.		(16 thru 20 over)
83.		(20 mph over + \$5.00 each mile)
84.	321.285	EXCESSIVE SPEED-ROAD WORK ZONES
85.		(1 thru 10 over)
86.		(11 thru 20 over)
87.		(21 thru 25 over)
88.		(Greater than 25 over)
89.		EXCESSIVE SPEED-(school bus)
90.	321.285	Excessive speed by school bus (1 thru 10 over)
91.	321.288	Fail to maintain control
92.	321.294	Fail to maintain minimum speed
93.	321.295	Excessive speed on bridge
94.	321.297	Driving on wrong side of two-way highway
95.	321.298	Fail to yield half of roadway when meeting vehicle
96.	321.299	Passing on wrong side
97.	321.302	Improper overtaking on the right
98.	321.303	Unsafe passing
99.	321.304	(1)Passing on grade or hill
100.	321.304	(2)Passing too near bridge, intersection or RR
101.	321.304	(3)Passing contrary to highway sign or marking
102.	321.305	Violating one-way traffic designation
103.	321.306	Improper use of lanes
104.	321.307	Following too closely
105.	321.308	Following too closely (trucks and towing vehicles)
106.	321.309	(1)Towing for hire without a transporter plate
107.	321.309	(2)Towing in convoy maint at least 500 ft between units
108.	321.310	Unlawful towing of four-wheeled trailer
109.	321.311	Turning from improper lane

110.	321.312	Making U-turn on curve or hill
111.	321.313	Unsafe starting of a stopped vehicle
112.	321.314	Unsafe turn or fail to give signal
113.	321.315	Fail to give continuous turn signal
114.	321.316	Fail to signal stop or rapid deceleration
115.	321.317	Signal light requirement
116.	321.318	Incorrect hand signal
117.	321.319	Fail to yield to vehicle on right
118.	321.320	Fail to yield upon left turn
119.	321.321	Fail to yield upon entering through highway
120.	321.322	Fail to obey stop or yield sign
121.	321.323	Unsafe backing on highway
122.	321.323A	Unsafe approach to certain stationary vehicles
123.	321.324	Fail to yield to emergency vehicle
124.	321.325	Pedestrian disobeying traffic control signal
125.	321.326	Pedestrian walking on wrong side of highway
126.	321.327	Failure to yield to pedestrians' right of way
127.	321.328	Pedestrian failing to use crosswalk
128.	321.329	Vehicle failing to yield to pedestrian
129.	321.331	Soliciting ride from within roadway
130.	321.332	Unlawful use of white cane
131.	321.333	Failure to yield to blind person
132.	321.340	Driving in or through safety zone
133.	321.341	Failure to properly stop at railroad crossing
134.	321.342	Failure to obey stop sign at railroad crossing
135.	321.343	(1)Failure to stop certain cargo or passenger vehicles at RR crossing
136.	321.343	(2)(a)CMV-Fail to slow/check RR crossing
137.	321.343	(2)(b)CMV-Fail to stop/RR track not clear
138.	321.343	(2)(c)CMV-Blocks RR crossing
139.	321.343	(2)(d)CMV-Disobeys traffic control at RR
140.	321.343	(2)(e)CMV-Insufficient clearance at RR
141.	321.344	Unlawful movement of construction equipment at railroad track
142.	321.344B	Creating an immediate safety threat at RR crossing
143.	321.353	Unsafe entry onto sidewalk or roadway
144.	321.354	(1)Stopping on paved part of highway
145.	321.354	(2)Stopping on traveled part of unpaved highway
146.	321.358	Stopping, standing or parking where prohibited
147.	321.360	Prohibited parking in front of theaters and hotels
148.	321.361	Parking too far from curb/angular parking
149.	321.362	Parking without stopping engine and setting brake
150.	321.363	Driving with obstructed view or control
151.	321.364	Contaminated food-hazardous materials
152.	321.365	Coasting upon downgrade
153.	321.366	Improper use of median, curb, or access facility
154.	321.367	Fail to maintain distance from fire vehicle
155.	321.368	Crossing unprotected fire hose
156.	321.369	Depositing or throwing litter
157.	321.370	Removing injurious material
158.	321.372	(1)Failure of school bus driver to signal
159.	321.372	(2)Improper discharge of school bus passenger
160.	321.372	(3)Unlawful passing of school bus
161.	321.381	Driving or towing unsafe vehicle
162.	321.381A	Improper operation of low-speed vehicle

163.	321.382	Operating underpowered vehicle
164.	321.383	Failure to display reflective device on slow-moving vehicle
165.	321.384	Failure to use headlamps when required
166.	321.385	Insufficient number of headlamps
167.	321.386	Insufficient number of headlamps-motorcycle
168.	321.387	Improper rear lamp(s)
169.	321.388	Improper registration plate lamp
170.	321.389	Improper rear reflector
171.	321.390	Reflector requirements
172.	321.392	Improper clearance lighting on truck or trailer
173.	321.393	Lighting device color and mounting
174.	321.394	No lamp or flag on rear-projecting load
175.	321.395	Parking on certain roadways w/o parking lights
176.	321.397	Improper light on bicycle
177.	321.398	Improper light on other vehicle
178.	321.402	Improper use of spotlight
179.	321.403	Improper use of auxiliary driving lights
180.	321.404	Improper brake light
181.	321.404A	Use of light-restricting device
182.	321.409	Improperly adjusted headlamp
183.	321.415	Failure to dim
184.	321.419	Improper headlighting when night driving
185.	321.420	Excessive number of driving lights
186.	321.421	Violation of special restrictions on lamps
187.	321.422	Lights of improper color-front or rear
188.	321.423	(2)Unauthorized use of emergency vehicle lighting equipment
189.	321.423	(6)Failure to use flashing signal on slow-moving vehicle
190.	321.430	Defective braking equipment
191.	321.432	Defective audible warning device
192.	321.433	Unauthorized use of emergency audible warn device
193.	321.433	Unauthorized use of emergency vehicle
194.	321.434	Use of siren or whistle on bicycle
195.	321.436	Defective or unauthorized muffler system
196.	321.437	Failure to meet mirror requirements
197.	321.437	Failure to have proper exterior mirror (towing)
198.	321.438	(1)Windshield and window-obstructed vision
199.	321.438	(2)Dark window/windshield
200.	321.438	(3)Windshield and window requirements
201.	321.439	Defective windshield wiper
202.	321.440	Defective tires
203.	321.441	Unauthorized use of metal tire or track
204.	321.442	Unauthorized use of metal projections on wheels
205.	321.444	Failure to use safety glass
206.	321.445	Failure to wear/maintain safety belts
207.	321.446	Failure to secure child < 18 YOA
208.	321.449	Failure to comply with safety regulations rules
209.	321.449	Operation by unqualified driver
210.	321.449	Hours of service violation
211.	321.449	Presence of alcohol - CMV
212.	321.450	Violation of hazardous materials transportation
213.	321.454	Width violation
214.	321.455	Excessive side proj of load - passenger vehicle
215.	321.456	Excessive height

216.	321.457	Excessive length
217.	321.458	Excessive proj from front of vehicle
218.	321.460	Spilling on highway
219.	321.461	Excessive tow-bar length
220.	321.462	Failure to use required towing equipment
221.	321.466	Gross weight in excess of registered gross weight
		SNOWMOBILES
222.	321G.3	Res. registration/NonRes. user permit required
223.	321G.5	Display of identification number
224.	321G.9	Improper operation on roadways/highways
225.	321G.11	Mufflers
226.	321G.12	Lights required and brakes required
227.	321G.13	(1a)operate at rate of speed greater than reasonable/proper
228.		(1b)operate in a careless/reckless/negligent manner
229.		(1d) lights
230.		(1e) operate in tree nursery or planting damaging growing stock
231.		(1f) operate on public land/ice/snow in violation of official signs
232.		(1g) operate in prohibited park/wildlife areas/preserves/streambeds
233.		(1h) operate upon an operating railroad right-of-way
234.		(2) operate or ride with a loaded or uncased firearm
235.		(3) operate snowmobile on public land w/o measurable snow cover
236.	321G.17	violation of stop signal
237.	321G.19	Rented snowmobile
238.	321G.20	operation by persons <12 or allowing operation by persons <12
239.	321G.21	violation by manufacturer/distributor/dealer
240.	321G.24	(1) safety certificate violation
		ALCOHOLIC BEVERAGES
241.	123.47	(3) Possess/Purchase open container of alcohol by person 18-20YOA(1 st offense)
		(juvenile court if < 18 YOA)
242.	123.49	(2h) Providing alcohol to person under legal age
243.		Licensee or permittee
244.		Employee
		PSEUDOEPHEDRINE
245.	126.23A	Pseudoephedrine violation by employee
246.		(First Offense)
247.		(Second Offense)
248.		(Third Offense)
249.	126.23A	Purchase of pseudoephedrine
250.		(First Offense)
251.		(Second Offense)
252.		(Third Offense)
		SMOKING
253.	142D.9	Smoking in prohibited area (civil penalty)
254.	453A.2	(1) Employee providing tobacco to minor
255.		(1st Offense)
256.		(2nd Offense)
257.		(3rd Offense)
258.	453A.2	(2) Minor using tobacco (civil penalty)
259.		(1st Offense)
260.		(2nd Offense)
261.		(3rd Offense)
		PERSONS WITH DISABILITIES
262.	321L.2A	(2) Misuse of wheelchair parking cone

263.	321L.2A	(3) Interference with wheelchair parking cone
264.	321L.3	Failure to return handicapped ID
265.	321L.4	(2) Improper use of handicapped ID device
266.	321L.4	(2) Improper use of handicapped parking space
267.	321L.7	Failure to provide persons with disabilities parking space-signs
		EMERGENCY ENERGY
268.	473.8	Violations of executive order

TRAFFIC CONTROL DEVICES

3-3-6 **AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.** The City Council shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under state law or to guide or warn traffic.

The Police Officer shall keep a record of all traffic-control devices maintained by the City.
(Ord. 03-04, Passed September 9, 2003)

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.
(Code of Iowa, Sec. 321.255 and 321.256)

3-3-7 **CITY COUNCIL BY RECOMMENDATION FROM POLICE OFFICER TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES.** The Police Officer is hereby authorized:

(Ord. 03-04, Passed September 9, 2003)

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.

3-3-8 **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

3-3-9 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 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. School District Speed Limit: | 20 mph |
| 2. Tennis Lane Speed Limit: | 20 mph |
| 3. Peosta Community Parkway Speed Limit: | 20 mph |
| 4. All Other City Streets: | 25 mph |
- (Ord. 05-04, Passed July 14, 2005)
(Ord. 2007-08, Passed September 25, 2007)
(Ord. 2019-08, August, 27, 2019)

TURNING MOVEMENTS

3-3-10 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)

3-3-11 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.

3-3-12 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.

3-3-13 "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

3-3-14 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the City Council shall cause

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

3-3-15 ONE-WAY STREETS AND ALLEYS. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction: None designated.

3-3-16 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The Mayor or Police Officer is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The City Council may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

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

The following streets may have variable laning or direction of traffic at different times of day as marked by authorized signs under the provisions of this section: None designated.

3-3-17 STOP INTERSECTIONS. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right of way to any vehicle on the intersecting roadway, which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. The list of stop signs are adopted for reference by resolution.

(Amended during 2010 codification)

SPECIAL STOPS REQUIRED

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

(Code of Iowa, Sec. 321.245 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 INTERSECTIONS 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 Police Officer is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

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

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

PEDESTRIANS' RIGHTS AND DUTIES

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

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.326)

METHOD OF PARKING

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and

shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

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

STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

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

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.

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

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

15. In an alley under any fire escape at any time.

16. Mailboxes. Within five (5) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

(Ord. 2015-01, Passed April 14, 2015)

3-3-30 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.

1 When because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause curbs to be painted with a yellow or orange color and erect "No Parking" or "Standing" signs. It shall be unlawful for 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 erect "No Parking" signs.

2 It shall be unlawful for any person to park a motor vehicle on those streets or city-owned properties or portions thereof designated from time to time as areas where parking is prohibited, whether at all times, or between certain hours, or longer than specified times between certain hours or for longer than specified times, in violation of such regulations when signs have been posted in such areas giving notice of such regulations.

3 Time Zone Designated. No person shall park a motor vehicle for a period of more than two (2) consecutive hours Monday through Friday on the city-owned lot on Peosta Street between Kapp Drive and Enterprise Drive.

(Ord. 06-02, Passed May 23, 2006)

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

(Ord. 03-04, Passed September 9, 2003)

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

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

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

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

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

STOPPING, STANDING OR PARKING

3-3-32 PARKING SIGNS REQUIRED. Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the City Council to direct that appropriate signs be erected 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 PROHIBITED PARKING DURING SNOW EMERGENCY. No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the Mayor is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Officer 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 weighing five tons or more, loaded or empty, shall not be parked on any residential street. Residential street for purposes of this ordinance shall mean any street located within the Restricted Residence District in the City of Peosta.

(Ord. 02-07, October 22, 2002)

3-3-35A TRAILERS. Semi-trailers, livestock trailers, and trailers exceeding fifteen (15) feet in length shall not be parked on City streets or right-of-way or on private property used for a residential purpose within the City.

(ECIA Model Code Amended in 2020)

MISCELLANEOUS DRIVING RULES

3-3-36 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal. (Code of Iowa, Sec. 321.236 [1])

1. Burds Road on the north and south sides from Peosta Street to Cox-Springs Road
2. Peosta Street on the east side from Highway 20 Interchange to Old Highway Road
3. Peosta Street on the west side from Highway 20 Interchange to Royal Oaks Drive and Cashel Drive to Old Highway Road
4. Ulyana Drive on the south side from Cox-Springs Road to Thunder Hills Road.

(Ord. 2018-07, Passed December 11, 2018)

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

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

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

3-3-39 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this

chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

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

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

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

(Ord. 03-04, Passed September 9, 2003)

3-3-43 TRUCK ROUTES.

1. Every motor vehicle licensed for five tons or more, when loaded or empty, having no fixed terminal within the City or making no schedule 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: Burds Road, Deerwood Street, Enterprise Drive, Kapp Court, Kapp Drive, Peosta Street.

(Ord. 02-07, October 22, 2002)

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.

(Ord. 03-04, Passed September 9, 2003)

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.

BICYCLE REGULATIONS

3-3-44 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 during 2010 codification)

3-3-45 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.

3-3-46 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.

3-3-47 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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

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

3-3-48 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-49 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.

3-3-50 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.

3-3-51 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.

3-3-52 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.

3-3-53 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

3-3-54 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.

3-3-55 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.

3-3-56 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 eight o'clock (8:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

3-3-57 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good condition and at least one headlight and one taillight.

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.

3-3-58 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.

3-3-59 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.

3-3-60 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

(Ord. 03-04, Passed September 9, 2003)

OFF-ROAD VEHICLES

3-3-61 DEFINITIONS. For use in this Chapter the following terms are defined:

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

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321, but which contains design features that enable operation over natural terrain.

3. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a steering wheel for control.

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

(Amended during codification)

3-3-62 PROHIBITIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle in the city.

3-3-63 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)

(Amended during 2010 codification)

PENALTIES AND PROCEDURE ON ARREST

3-3-64 CITATION PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a written parking citation giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear at the place designated in the citation within seven days, or to pay the local scheduled fine established by the section titled "LOCAL PARKING FINES" in this chapter at the City Clerk-Treasurer's office as provided therein.

3-3-65 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.

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

1. Overtime parking	\$25.00
2. Prohibited parking	\$25.00
3. No parking zone	\$25.00
4. Blocking alley	\$25.00
5. Illegal parking	\$25.00
6. Street Cleaning	\$25.00
7. Snow removal ban	\$25.00
8. Persons with disabilities parking	\$100.00

(Code of Iowa, Sec. 321L.4 Sub. 2)
(Ord. 03-04, Passed September 9, 2003)
(Ord. 06-02, Passed May 23, 2006)

3-3-66 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 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.

(Ord. 03-04, Passed September 9, 2003)

3-3-67 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.

(Ord. 03-04, Passed September 9, 2003)

3-3-68 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.

(Ord. 03-04, Passed September 9, 2003)

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))

(Amended during 2010 codification)

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 nonmechanical 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 POLICE AND FIRE PROTECTION

3-5-1 Police Protection

3-5-2 Fire Protection

3-5-1 POLICE PROTECTION. Police protection in the City of Peosta, Iowa shall be provided by the Peosta Police Department and by the Dubuque County Sheriff's Department.
(Ord. 99-01, October 12, 1999)

3-5-2 FIRE PROTECTION. Fire protection in the City of Peosta shall be provided by 28 E Agreement with the Centralia Peosta Community Fire Department.

TITLE III COMMUNITY PROTECTION

CHAPTER 6 CURFEW FOR MINORS

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

3-6-1 PREAMBLE. The City of Peosta 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 Peosta; 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 Peosta 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 12:01 a.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

4. Guardian means:

- a. A person who, under court order, is the guardian of the person of a minor; or
- b. A public or private agency with whom a minor has been placed by a court.

5. Minor means any person under 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 Peosta, 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 Peosta, 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 RESERVED.

(ECIA Model Code Amended in 2020)

"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	3-7-8	Obstruction of Pedestrian or Vehicular Traffic
3-7-2	Exemptions		
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		
3-7-7	Bond Required		

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. The groups listed in 3-7-2 need to apply for a permit but are exempt from the permit fee.

(Code of Iowa, Sec. 9C.2)
(Amended during 2018 codification)

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

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

3-7-5 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-Treasurer, 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 license in his or her place of business.

(Ord. 03-04, Passed September 9, 2003)

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.

(Ord. 03-04, Passed September 9, 2003)

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 his or her business in an unlawful manner.

(Ord. 03-04, Passed September 9, 2003)

TITLE III COMMUNITY PROTECTION

CHAPTER 8 MOBILE FOOD VENDORS

3-8-1	Definitions	3-8-6	Permit Fees
3-8-2	Mobile Food Unit Permit Required	3-8-7	Compliance with the Law
3-8-3	Mobile Food Unit Licensing Application	3-8-8	Suspension or Revocation of Permit
3-8-4	Mobile Food Vendor Location		
3-8-5	Property Owner/Lessee Responsibility		

3-8-1 DEFINITIONS.

1. “Mobile food vendor:” a person engaged in the business of selling food or beverages from a mobile food unit (self-contained motorized vehicle, trailer or pushcart).

2. “Pushcart:” a pushcart is a non-motorized vehicle with dimensions not exceeding 4 feet in width and 8 feet in length and 8 feet in height and being capable of being moved and kept under control by one person traveling on foot.

3-8-2 **MOBILE FOOD UNIT PERMIT REQUIRED.** It shall be unlawful for any person to engage in the sale of food or beverages from a mobile food unit without first obtaining a mobile food unit permit. A mobile food unit permit issued by the City Clerk or the City Clerk’s designee shall be subject to the following:

1. A mobile food unit permit is an annual permit that expires on December 31st each year.
2. Each mobile food unit shall be permitted separately. No permit transfer is allowed.
3. Each mobile food unit shall comply with State of Iowa inspection requirements and display its state permit in full view of the public in or on the unit.
4. Each mobile food unit shall have working fire suppression capabilities.
5. Exempt. Vendors that are permitted through Peosta Economic Development Corporation or other non-profit, community organization in conjunction with community special events shall be exempt from the requirements of this section.

3-8-3 MOBILE FOOD UNIT LICENSING APPLICATION.

1. Filing. Application requests shall be filed with City Hall. No application request shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the required fees.

2. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than seven (7) calendar days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any applications that have not been timely submitted to the City.

3. Application Contents. Application shall be made on a form provided by the City and shall include:

- a. Full name of the applicant.
- b. Applicant's contact information including mailing address, phone numbers, photo identification and e-mail address.
- c. Photographs of the mobile food unit from the front, side and back.
- d. Make, model, and year of the vehicle to be used and the permit plate number (if required).
- e. Proof of food service permit, safety certificate and inspection reports.
- f. Liability Insurance Certificate.
- g. Sales Tax Permit.

4. Right to Appeal. Any applicant whose application for permit was disapproved may appeal to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee a written request for an appeal to the City Council at least seven (7) days prior to the meeting. As a result of this appeal, the City Council may affirm, modify or reverse the decision of the Clerk not to issue the permit. If the application for permit is denied, the applicant is not eligible for the issuance of a permit under this chapter for a period of one year from the date of notification that the permit application was disapproved.

5. Applications Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within thirty (30) days from the last notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

6. Issuance of Permit. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk or the City Clerk's designee will issue a mobile food unit permit.

3-8-4 MOBILE FOOD VENDOR LOCATIONS.

1. Mobile Food Units on Public Property. A mobile food unit (non-pushcart) may be parked on public property or street (on a non-residential side) as approved in the licensing application. Mobile food units may not park within a City park or property without written consent from the City. Mobile units also are prohibited from parking within 100 feet of any façade or outdoor seating of a ground level establishment that sells prepared food or beverages (this only applies from one hour before the establishment's opening to an hour after closing) without approval from the food establishment owner.

2. Pushcarts are permitted to operate within City parks as well as private property (with property owner approval). Request for authorization to vend within a City park shall be submitted no less than five (5) days and no more than fifteen (15) days prior to the requested day of vending.

3. No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done so in compliance with all other City Code requirements or the mobile food unit is a participant in a multiple (contiguous) day, City permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to permit revocation, towing, or any other action legally allowed.

4. Music and Sound Making Devices. The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

5. Mobile Food Unit Performance Standards. Persons conducting business from a mobile food unit must do so in compliance with the following standards:

a. The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate or from the City if a pushcart on public property. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit the violation of any other impossible regulations.

b. The operator of the mobile food unit shall display their City permit in full view of the public in or on the unit.

c. Mobile food units that are within three hundred feet (300') of a residential use or residentially zoned property, shall be limited to hours of operation between seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m.

d. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

e. The mobile food unit (non-pushcart) must be located on a paved or rock surface.

f. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by City after a review of the particular property

and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include, but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.

g. All mobile food units shall maintain a minimum separation from buildings of ten feet as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.

h. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate safe space for patrons waiting for their order must be available on the property where the mobile food unit is located.

i. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not projected more than six inches (6") from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited unless expressly approved through permitting process.

j. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers and shall keep the area around the mobile food unit clear of litter and debris at all times.

k. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

3-8-5 PROPERTY OWNER/LESSEE RESPONSIBILITY. By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being a party to any enforcement actions or penalties allowed by law.

3-8-6 PERMIT FEES. At the time of the submittal of a permit application, the applicant shall pay to the City the applicable permit fee in addition to any applicable inspection fee(s). The fee schedule will be set by resolution and may be modified from time to time with approval by resolution of the City Council.

Any vendor who surrenders their permit prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

3-8-7 COMPLIANCE WITH THE LAW. Each mobile food unit vendor shall comply with all applicable federal, state, and local laws, regulations, and rules.

3-8-8 SUSPENSION OR REVOCATION OF PERMIT. Any permit issued under the provisions of this chapter may be suspended or revoked by the City as follows:

1. Grounds. The City Administrator or the City's designee may suspend or revoke any permit issued under this chapter, for any of, but not limited to, the following reasons:

a. The vendor has made fraudulent statements in his/her application for the permit or in the conduct of his/her business.

b. The vendor has violated this chapter or any other chapter of this Code or has otherwise conducted his/her business in an unlawful manner.

c. The vendor has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.

d. The City Administrator or City's designee has received and investigated three (3) or more found complaints during the vendor period related to the manner in which the vendor is conducting business.

2. Notice of Suspension or Revocation; Right to Appeal: The City shall cause notice of the permit revocation to be served in person by a City official or by mail to the vendor's local address, which notice shall specify the reason(s) for such action, at which time operations of the vendor must cease within the corporate limits of the City of Peosta. The vendor may appeal the revocation of the permit to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee a written request for an appeal to the City Council at least seven (7) days prior to the meeting. The City Council may affirm, modify or reverse the decision of the City Administrator or the City's designee to revoke such permit. If a permit is revoked, no refund of any permit fee paid shall be made. Upon the revocation of a permit, the vendor is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation.

(Ord. 2020-06, Passed November 24, 2020)

TITLE III COMMUNITY PROTECTION

CHAPTER 9 ALCOHOLIC BEVERAGES

3-9-1	Purpose	3-9-3	Action by Council
3-9-2	Required Obedience to Provisions of this Chapter and State Law	3-9-4	Transfers

3-9-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-9-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverages
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 - 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

(Ord. 03-04, Passed September 9, 2003)

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa alcoholic beverages division for further action as provided by law.

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

3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

TITLE III COMMUNITY PROTECTION

CHAPTER 10 JUNK AND ABANDONED VEHICLES

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

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

(Code of Iowa, Sec. 3641.1)

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

1. "Abandoned vehicle" means any of the following:

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

(Ord. 03-04, Passed September 9, 2003)

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

(Ord. 03-04, Passed September 9, 2003)

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

e. Any vehicle parked on the street determined by the Police Officer 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 unlicensed vehicle stored within the corporate limits of the City of Peosta, Iowa, or any vehicle which has any one of the following characteristics:
(Ord. 03-04, Passed September 9, 2003)

a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

3-10-3 REMOVAL OF ABANDONED VEHICLES.

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

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

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Peosta Police Officer 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))

(Ord. 03-04, Passed September 9, 2003)

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

3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of state law, the Peosta Police Officer 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 Police Officer 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-one 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 or any person receiving notice may, by written request received by the Peosta Police Officer 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))

(Ord. 03-04, Passed September 9, 2003)

3-10-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Police Officer evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

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

e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

a. the fees required by Section 3-10-5(1).

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

3-10-6 HEARING PROCEDURES. 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 Section 1-4-1 et seq.

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

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Peosta Police Officer shall follow the procedures in state law for the auction or disposal of abandoned vehicles.

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

(Ord. 03-04, Passed September 9, 2003)

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Peosta, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

3-10-9 NOTICE TO ABATE.

1. Whenever the Police Officer shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Police Officer shall notify, by certified mail with five days' return receipt, the following persons:

a. the owner of the property

b. the occupant of the property

2. The notice to abate shall:

- a. describe, to the extent possible, the year, make, model, and color of the vehicle
- b. describe the location of the vehicle
- c. state that the vehicle constitutes a nuisance under the provisions of this chapter
- d. state that the owner of the property shall remove or repair the said junk vehicle within ten days

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

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

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk-Treasurer shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk-Treasurer shall certify the costs to the County Auditor and the costs shall then be collected with, and in the same manner, as general property taxes.

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

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

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

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

TITLE III COMMUNITY PROTECTION

CHAPTER 11 LICENSING JUNK DEALERS

3-11-1	Purpose	3-11-8	Power to Inspect and Investigate
3-11-2	Definitions	3-11-9	Revocation of License
3-11-3	License Required	3-11-10	Appeal
3-11-4	Application for License	3-11-11	Effect of Revocation
3-11-5	Fee Payment	3-11-12	Transfer of License Prohibited
3-11-6	Issuance of a License	3-11-13	Display of License
3-11-7	Fees and Duration of License	3-11-14	Special Requirements

3-11-1 **PURPOSE.** The purpose of this Ordinance is to assure that in the conduct of the activities, vocations, and professions licensed and regulated by this Ordinance, the public health, safety and welfare will be protected and maintained.

3-11-2 **DEFINITIONS.** For use in this Ordinance, the following terms are defined:

1. The term "junk dealer" shall mean any person engaged in collecting, storing, buying or selling junk. "Junk" means articles or materials that, because of age, deterioration or use, have lost their original utility or desirability but that by alteration, restoration or salvage may furnish an item or items of value.

2. The term "person" shall mean any individual, firm, corporation or association of any kind.

3-11-3 **LICENSE REQUIRED.** It shall be unlawful for any person to engage in any activity, vocation, or profession regulated by this Ordinance without a valid license from the City of Peosta, Iowa.

3-11-4 **APPLICATION FOR LICENSE.** Application for a license under this Ordinance shall be made in writing on forms furnished by the City Clerk. One application shall be filed with the City Clerk and shall include:

1. The applicant's full name and address, the address of the local business establishment, and the nature of the business.

2. If the applicant is not the owner of the place in which the business is to be conducted, the name and address of the owner.

3. If the applicant is a corporation or other association, it shall also list the names and addresses of its principal officers.

4. The attachment of a receipt from the City, showing payment of all fees.

3-11-5 FEE PAYMENT. All fees required by this Ordinance shall be paid to the City Clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.

3-11-6 ISSUANCE OF A LICENSE. If the City Clerk finds that all of the prescribed conditions for the issuance of a license have been satisfied, that no grounds for revocation under Section 3-11-9 of this Ordinance exists, and that the special requirements of Section 3-11-14 of this Ordinance have been complied with, the license shall be issued immediately to the applicant. The Clerk must make a determination whether to issue the license within ten (10) days from the date a completed application is submitted. If the Clerk refuses to act within this ten (10) day period, the applicant shall have a right to a hearing before the Council at its next regular meeting on whether the license should be issued.

3-11-7 FEES AND DURATION OF LICENSE.

1. Any applicant may apply for an annual license. The annual license shall be valid for one year after the date on which it is issued.

2. The fees for license shall be ten dollars (\$10.00).

3-11-8 POWER TO INSPECT AND INVESTIGATE. Upon receipt of an application for a license, the City Clerk shall forward it immediately to the Mayor, who shall conduct an investigation and submit a written report concerning the truth of the facts stated in the application and a recommendation concerning whether or not a license should be issued. No license shall be issued until the report has been submitted to the City Clerk and such reports shall be submitted within seven (7) days after the City Clerk receives the application.

3-11-9 REVOCATION OF LICENSE. After giving a licensee 30 days notice and after a hearing, the Clerk may revoke any license issued under this Ordinance for the following reasons:

1. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. The licensee has violated this Ordinance or has otherwise conducted the business in an unlawful manner.

3. The licensee has conducted the business in such manner as to endanger the public welfare, health, safety, order or morals.

The notice shall be in writing and shall be served personally or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

3-11-10 APPEAL. If the City Clerk revokes or refuses to issue a license, the Clerk shall endorse the reasons upon the application. The applicant shall have a right to a hearing before the Council at its next regular meeting providing the applicant files a written notice of appeal to the Council within 14 calendar days of the decision of the Clerk. The Council may reverse, modify

or affirm the decision of the City Clerk by a majority vote of the Council members present, if a quorum and the City Clerk shall carry out the Council's decision.

(Ord. 03-04, Passed September 9, 2003)

3-11-11 EFFECT OF REVOCATION. Revocation of a license shall bar the licensee from being eligible for any license under this Ordinance for a period of one year from the date of revocation.

3-11-12 TRANSFER OF LICENSE PROHIBITED. In no case shall a license issued under this Ordinance be transferred to another person.

3-11-13 DISPLAY OF LICENSE. Every person who is issued a license under the provisions of this Ordinance shall display the license in a conspicuous place on the premises on which the business is being conducted.

3-11-14 SPECIAL REQUIREMENTS. Every person who is granted a license under the terms of this Ordinance shall comply with the following regulations:

1. A junk dealer shall not purchase or receive junk from a minor unless the dealer first receives the written consent of the parents or guardian of the minor. Such consent shall be attached to the record book as a part of the permanent record.

2. In order to discover stolen property, Peace Officers shall be permitted to inspect the junk dealer's yard, store or establishment at all reasonable hours.

3. The County Health Officer shall be permitted at all reasonable times to inspect the junk dealer's premises for the existence of materials or conditions dangerous to the public health.

4. All junk yards shall be enclosed within a solid fence at least eight feet (8') in height, which fence shall be painted white. Materials within the yard shall not be stacked higher than the surrounding fence. Any gates in said fence shall be of solid material and of equal height.

5. The burning of materials on the license holder's premises is prohibited.

(Ord. 03-04, Passed September 9, 2003)

6. The business of junk dealer shall be located within territory not included in a restricted residence district as described in Chapter 6-10.

TITLE III COMMUNITY PROTECTION

CHAPTER 12 SNOW REMOVAL

3-12-1 Purpose	3-12-5 Removal of Snow and Ice
3-12-2 Snow Emergency Declaration	Accumulations on Sidewalks
3-12-3 Snow Removal Routes	3-12-6 Vehicle Parking During a Snow
3-12-4 Driveways and Snow from Private	Emergency
Properties	3-12-7 Pushing Snow into Streets

3-12-1 PURPOSE. The purpose of this Chapter is to establish and maintain uniform definitions and procedures concerning snow and ice removal for the City of Peosta. The City will provide snow and ice removal in a safe and cost-effective manner, taking into account safety, budget, personnel and environmental concerns.

This Chapter does not guarantee that the streets, public parking lots, city maintained sidewalk and other public areas will be free of snow and ice; but rather attempts to maintain an adequate traveling surface for properly equipped vehicles and pedestrians during winter conditions.

Snow and ice removal from public streets, public parking areas, city maintained sidewalks and other public areas is an emergency operation that takes precedence over other non-emergency work for the public works department.

3-12-2 SNOW EMERGENCY DECLARATION. A snow emergency is defined as any amount of snow. Snow combined with ice, rain and/or wind may also constitute a snow emergency. The Mayor and/or his/her designee may declare a snow emergency. A snow emergency may be declared in advance of an anticipated storm, during a storm or after a storm. A snow emergency will normally not last more than 24 hours past the end of the last snowfall; but may be extended or shortened when conditions warrant. The public will be informed of a snow emergency through mass media outlets as deemed necessary by the Mayor.

3-12-3 SNOW REMOVAL ROUTES. The City Council shall establish and maintain a priority list of streets, public parking areas, city-maintained sidewalks and other public areas for snow and ice removal by resolution.

3-12-4 DRIVEWAYS AND SNOW FROM PRIVATE PROPERTY. City snowplows will not clear private driveways. The snow placed in driveways by the city plows is an unavoidable consequence of removing snow from the streets and it is the responsibility of the property owner to remove. Snow from private driveways, private parking lots and sidewalks may not be placed on city streets.

3-12-5 REMOVAL OF SNOW AND ICE ACCUMULATIONS ON SIDEWALKS. It is the responsibility of the abutting property owners to remove snow and ice accumulations from sidewalks. If a property owner does not remove snow and ice accumulations within twenty-four (24) hours after deposit of accumulation, the City will attempt to notify the resident and give an additional twenty-four (24) hours to clear or the City may do so and assess the costs against the

property owner for collection in the same manner as a property tax, as provided in Section 6-8-3 of the Peosta Code.

3-12-6 VEHICLE PARKING DURING A SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley or City-owned off-street parking area during a snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. Vehicles parked on the street during a snow emergency are subject to tow without notice to the owners at the owner's expense. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the twenty-four (24) hour period after cessation of the storm except as above provided upon streets that have been fully opened. The ban shall be of uniform application and the Police Chief is directed to publicize the requirements, using all available news media, in early November each year. The emergency may be extended or shortened when conditions warrant.

3-12-7 PUSHING SNOW INTO STREETS. A person or entity shall not push, plow or place any snow into, onto or across any public street. Penalty per violation in twelve (12) month period:

First offense	Warning
Second offense	Warning
Third offense	\$25.00 civil penalty plus court costs
Fourth offense	\$50.00 civil penalty plus court costs
Fifth offense	\$100.00 civil penalty plus court costs

(Ord. 2014-04, Passed September 9, 2014)

TITLE III COMMUNITY PROTECTION

CHAPTER 13 FIREWORKS ORDINANCE

3-13-1	Definitions	3-13-6	Permits Required
3-13-2	Violations	3-13-7	Seizure of Fireworks
3-13-3	Prohibitions	3-13-8	Emergency
3-13-4	Sale of Consumer Fireworks		
3-13-5	Restrictions on the Use of Consumer Fireworks		

3-13-1 DEFINITIONS. The following words, terms, and phrases, when used in this Article, shall have the meaning as set forth in this section, except where the context clearly indicates a different meaning:

1. "Consumer Fireworks" includes First-Class Consumer Fireworks and Second-Class Consumer Fireworks as those terms are defined in Section 100.19 and Chapter 727 of the Iowa Code. Consumer Fireworks do not include Novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 or Display Fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.

2. "Display Fireworks" include any explosive composition, or combination of explosive substances, or article prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. Display Fireworks does not include Novelties or Consumer Fireworks enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1.

3. "Fireworks" means Consumer Fireworks and Display Fireworks. Fireworks does not include Novelties as defined in American Pyrotechnics Association's Standard 87-1, Chapter 3, and that comply with the labeling regulations promulgated by the United States Consumer Products Safety Commission.

3-13-2 VIOLATIONS.

1. Any person who fails to perform an act required by the provisions of this Chapter, or who commits an act prohibited by the provisions of this Chapter, shall be guilty of a simple misdemeanor punishable by a fine or punishable as a municipal infraction civil penalty as set forth in this Code.

2. A person may be prosecuted under the public nuisance provisions set forth in this Code and/or any other remedy available at law, to address any failure to perform an act required by the

provisions of this Chapter or any action prohibited by the provisions of this Code of Ordinances or Code of Iowa.

3. A person who sells Consumer Fireworks to a person who is less than eighteen (18) years of age commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

4. A person who is less than eighteen (18) years of age who purchases Consumer Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

5. A person who uses or explodes Consumer Fireworks in violation of this Article commits a simple misdemeanor, punishable by a fine of \$250.00.

6. A person who uses or explodes Display Fireworks while the use of such device is in violation of this Article commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

7. A person who is less than eighteen (18) years of age who uses or explodes Consumer Fireworks or Display Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

3-13-3 PROHIBITIONS.

1. It shall be unlawful to manufacture fireworks within the City limits.

2. It shall be unlawful to sell Display Fireworks within the City limits.

3. It shall be unlawful for a person to possess, use or explode Display Fireworks, except in possession of and in compliance with all requirements of a permit issued by the City under this Ordinance.

3-13-4 SALE OF CONSUMER FIREWORKS.

1. It shall be unlawful for a person to offer for sale, expose for sale, or sell Consumer Fireworks, unless the person is a retailer or community group as defined in Chapter 100, Iowa Code, and possesses and complies with all requirements of a Consumer Fireworks seller license issued by the State Fire Marshall.

2. Consumer Fireworks may only be sold during the dates and times as established by the Iowa Code.

3. Consumer Fireworks may only be sold in zoning districts within the City that permit retail sales. Fireworks may not be sold on public property or within a residential zoning district.

3-13-5 RESTRICTIONS ON THE USE OF CONSUMER FIREWORKS.

1. A person shall not use or explode Consumer Fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.

2. A person shall not use or explode Consumer Fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m.

3. A person shall not use Consumer Fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of Consumer Fireworks on that property.

4. Persons using or exploding Consumer Fireworks must be at least eighteen (18) years of age or older.

5. Persons using or exploding Consumer Fireworks are prohibited from being under the influence of alcohol or other drugs or a combination of such substances, while having a blood alcohol concentration of .08 or more or while having any amount of a controlled substance in the person's body.

6. Any use or explosion of Consumer Fireworks must be more than 400 feet from an assisted living facility, nursing home, hospital, retirement home, or hospice.

7. Any use or explosion of Display Fireworks must be more than 800 feet from an assisted living facility, nursing home, hospital, retirement home, or hospice.

8. No use or explosion of Consumer Fireworks is allowed on any public property, including parks, cemeteries, public rights-of-way, public parking lots, or sidewalks.

9. A person who violates this subsection commits a simple misdemeanor.

3-13-6 PERMITS REQUIRED.

1. A permit must be obtained from the City in order to use or explode Display Fireworks. In order to obtain a permit, the applicant must comply with City permitting and insurance requirements.

2. Application for a permit must be made, in writing, and filed at the Office of the City Clerk, at least sixty (60) days in advance of the proposed display.

3-13-7 SEIZURE OF FIREWORKS.

1. The Police Chief may seize, take, remove, or cause to be removed, at the expense of the owner, all Consumer Fireworks or Display Fireworks, offered or exposed for sale, used, stored, possessed, or held in violation of this Chapter.

3-13-8 EMERGENCY.

1. When, in the opinion of the Fire Chief, weather and soil conditions create a safety emergency so that the use of Consumer Fireworks and/or Display Fireworks creates a danger to the public or property, the Fire Chief may suspend, cancel, or prohibit the use of Consumer Fireworks and/or Display Fireworks.

(ECIA Model Code Amended in 2017)

TITLE III COMMUNITY PROTECTION

CHAPTER 14 OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES

3-14-1	Purpose	3-14-7	Equipment
3-14-2	Definitions	3-14-8	Unlawful Operation
3-14-3	General Regulations	3-14-9	Parking
3-14-4	Places of Operation	3-14-10	ATVs and UTVs Permit
3-14-5	Negligence	3-14-11	Suspension of Permit
3-14-6	Accident Reports	3-14-12	Penalty

3-14-1 PURPOSE. The purpose of this chapter is to permit the operation of all-terrain vehicles (“ATVs”) and off-road utility vehicles/utility terrain vehicles (“UTVs”) on certain streets in the City. This chapter applies whenever an ATV or UTV is operated on any street or alley of the City of Peosta, Iowa.

3-14-2 DEFINITIONS.

1. “All-terrain vehicle” or “ATV” is defined as a motorized vehicle with not less than three and not more than six nonhighway tires that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred pounds (1,200) and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. “All-terrain vehicle” includes off-road motorcycles.

2. “Off-road utility vehicle” or “utility terrain vehicle” or “UTV” is defined as a motorized vehicle with not less than four and not more than eight nonhighway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

a. “Off-road utility vehicle—type 1” is defined as an off-road utility vehicle with a total dry weight of one thousand two hundred (1,200) pounds or less and a width of fifty inches or less;

b. “Off-road utility vehicle—type 2” is defined as an off-road utility vehicle, other than off-road utility vehicle—type 1, with a total dry weight of two thousand (2,000) pounds or less, and a width of sixty-five (65) inches or less;

c. “Off-road utility vehicle—type 3” is defined as an off-road utility vehicle with a total dry weight of more than two thousand (2,000) pounds or a width of more than sixty-five (65) inches, or both.

(Code of Iowa, Sec. 321.[17])

3-14-3 GENERAL REGULATIONS.

1. No person shall operate an ATV or UTV within the City in violation of the provisions of Chapter 321 of the Code of Iowa or rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment, and manner of operation.

(Code of Iowa, Ch. 321)

2. No owner shall permit a person to operate an ATV or UTV within the City unless the person is at least eighteen (18) years of age and possesses a valid driver's license.

3. No ATV or UTV shall be operated on a City Street at speed in excess of twenty-five (25) miles per hour or the posted speed limit, whichever is less.

3-14-4 PLACES OF OPERATION. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on all City streets unless prohibited by this Section. ATVs and UTVs may stop at service stations or convenience stores along any permitted street.

2. Prohibited City Property During School Hours. ATVs and UTVs shall not be operated upon the city property of Peosta City Hall Parking lot and the Peosta Community Center Parking lot Monday through Friday for the purpose of Peosta Elementary School morning drop off and afternoon pickup of children.

3. Time Of Operation. All-terrain vehicle and off-road utility vehicle operation may begin at 5:00 a.m. and must cease at sunset.

4. Exceptions to Prohibited Streets. Employees of the City of Peosta, since it is political Subdivision can legally operate a UTV/ATV on prohibited streets for the purpose of construction or maintenance per State Code 321.234A.

5. Railroad Right-of-Way. An ATV or UTV may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

3-14-5 NEGLIGENCE. The owner and operator of an ATV or UTV are liable for any injury or damage occasioned by the negligent operation of the ATV or UTV.

3-14-6 ACCIDENT REPORTS. Whenever an ATV or UTV is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer as required under Iowa Code Sections 321.11 and 321.266.

(Code of Iowa, Sec. 321.11)

3-14-7 EQUIPMENT. ATVs and UTVs operated upon City streets shall be equipped with at least the following:

1. Adequate brakes;

(Code of Iowa, Sec. 321.13)

2. Headlights;

3. Taillights;

4. Rear mirrors; or

5. Side mirrors;

6. Safety belts (UTVs only); and

7. Muffler system limiting engine noise to not more than eighty-six (86) decibels and/or no modified exhaust.

(Code of Iowa, Sec. 321.12)

A violation of subsections 3 is a simple misdemeanor punishable as a scheduled fine under Iowa Code Section 805.8B.

3-14-8 UNLAWFUL OPERATION.

1. No ATVs or UTVs shall be operated or parked upon City sidewalks, trails, City parks, or other City land.

2. No ATVs or UTVs shall be operated on private property without the express consent of the owner.

3. No ATV or UTV shall be operated while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.

(Code of Iowa, Sec. 321.14[1c])

4. No person shall operate an ATV or UTV in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to the same.

(Code of Iowa, Sec. 321.14[1b])

5. No ATV or UTV shall be operated in violation of the traffic laws of the City of Peosta and the State of Iowa.

6. No ATV or UTV shall carry more passengers than which the ATV or UTV is designed.

7. No person shall ride in a UTV unless seated in a designated seat and secured with a safety belt.

8. No seat shall be used by more than one person at a time.

9. No cargo, materials, supplies, or other items may be transported on the ATV or UTV without being properly restrained.

10. No owner shall permit a person to operate an ATV or UTV unless the person is at least eighteen (18) years of age and possesses a valid driver's license.

11. No ATV or UTV shall be operated without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred (500) feet ahead.

(Code of Iowa, Sec. 321.14[1d])

12. No person shall leave an ATV unattended on public property while the motor is running or the keys are in the ignition switch.

13. No person shall operate an ATV or UTV on any trail unless the trail is designated as open for operation of that vehicle.

14. An ATV shall only have one person riding, which shall be the operator.

15. Proof of insurance and registration must be maintained during operation.

3-14-9 PARKING. ATVs and UTVs may be parked in City parking lots or on any City street where vehicle parking is permitted, except no ATV or UTV may be parked on any primary road extension.

3-14-10 ATVs and UTVs Permit. No owner shall allow a person to operate an ATV or UTV on any public street or alley, for any purpose, unless the vehicle is registered with the Department of Natural Resources.

1. Proof of Ownership. The owner of each ATV or UTV shall be required to provide proof of ownership, including Iowa Department of Natural Resources registration and proof of liability insurance with appropriate minimum standards as required by Iowa Code 321.20B.

2. Current Registration. ATV or UTV vehicles registered in Iowa are required to display their current Iowa Department of Natural Resources registration decal.

3-14-11 SUSPENSION. Violation of this ordinance may result in the suspension of permit to operate all-terrain and off-road utility vehicles within the city limits of Peosta.

3-14-12 PENALTY. 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, a violation of this Chapter shall be a municipal infraction subject to the following penalties:

1. For a first offense, a fine of one hundred twenty-five dollars (\$125.00).
2. For a second and each subsequent offense within a two (2) year period, a fine of at least two hundred fifty dollars (\$250.00), but not more than seven hundred fifty dollars (\$750.00).
(Ord. 2021-06, Passed September 14, 2021)

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-6	Impounding
4-1-2	License	4-1-7	Dangerous Animals
4-1-3	Immunization	4-1-8	Keeping a Vicious Animal
4-1-4	At Large Prohibited	4-1-9	Kennel Dogs
4-1-5	Animal Nuisances		

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

1. The term "dogs" shall mean animals of the canine species whether altered or not.
(Ord. 03-04, Passed September 9, 2003)

2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.

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

(Ord. 03-04, Passed September 9, 2003)

4-1-2 **LICENSE.** Every owner of a dog shall procure a dog license subject to the following:

1. **License Fee.** The annual license fee for each dog shall be set by Resolution of the City Council. No license shall be issued until the fee is paid in full. Licenses purchased July-December shall pay half the yearly fee.

2. **License Application Form.** The owner of a dog for which a license is required shall, on or before January 1 each year, apply to the City Clerk or designee, for a license for each dog owned by him or her.

3. **Tag.** The City Clerk or designee shall, upon receipt of the application for a dog license, deliver to the applicant a license which shall be in the form of a metal tag stamped with the following information: the year for which it was issued, the name of the City, and the number as shown in the records in the office of the City Clerk.

- a. The color of the tag shall change each year.

- b. The tag shall be attached by the owner to a substantial collar and, during the term of the license, shall be at all times kept on the dog for which the license is issued. Upon the expiration of the license the owner shall remove the tag from the dog.

c. Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

d. Upon the filing of notice that the license tag has been lost or destroyed, the owner may obtain a replacement tag. The City Clerk or designee shall enter in the license record the new number assigned.

4. Expiration of License. All dog licenses shall expire on December 31 the year of the date of issuance.

(Ord. 03-04, Passed September 9, 2003)

(Ord. 2007-07, Passed September 25, 2007)

(Ord. 2020-07, Passed October 27, 2020)

4-1-3 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.41)

(Ord. 03-04, Passed September 9, 2003)

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)

(Ord. 03-04, Passed September 9, 2003)

4-1-6 IMPOUNDING.

1. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of Sections 4-1-3 and 4-1-4 of this chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to

answer charges made thereunder.

(Ord. 03-04, Passed September 9, 2003)

2. Owners of licensed dogs shall be notified within two (2) days that upon payment of impounding fees plus cost of food and care in a reasonable amounts, the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 Code of Iowa.

(Ord. 03-04, Passed September 9, 2003)

3. Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required 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 DANGEROUS ANIMALS.

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

2. Definitions. A dangerous animal is:

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

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

- (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
- (2) Wolves, coyotes, and foxes;
- (3) Badgers, wolverines, weasels, skunks and mink;
- (4) Raccoons;
- (5) Bears;

- (6) Monkeys, chimpanzees, and apes;
- (7) Alligators and crocodiles;
- (8) Scorpions; gila monsters;
- (9) Snakes that are venomous or constrictors;

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.

(Ord. 03-04, Passed September 9, 2003)

(Ord. 2008-01, Passed January 22, 2008)

4-1-8 VICIOUS ANIMALS. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City.

1. Vicious Animal Defined. A potentially “vicious animal” is an animal that:

a. When unprovoked, on two (2) separate occasions, has engaged in any behavior that has required a defensive action by any person to prevent bodily injury when the person and animal were off of the property of the owner or keeper of the animal;

b. When unprovoked, has attacked or bitten a person;

c. When unprovoked, has inflicted a serious injury or caused the death of a domestic animal, either on public or private property other than the property of the owner or keeper; or

d. When unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public or private property other than the property of the owner or keeper, in a menacing fashion or apparent attitude of attack.

2. Procedure For Declaration Of Potentially Vicious Animal:

a. Basis for Declaration: The Police Chief, City Clerk, or designee may find and declare an animal potentially vicious based upon the following:

(1) The written complaint of a citizen that the animal has acted in a manner set forth in section 4-1-8(1) of this chapter;

- (2) Animal bite reports filed with the health services department;
- (3) Actions of the animal witnessed by any animal control officer or law enforcement officer; or
- (4) Other substantial evidence.

b. Service of Declaration Upon Owner: The declaration of a potentially vicious animal shall be in writing and shall be served on the owner or keeper in one of the following methods: personally, by certified mail to the owner at the owner's or keeper's last known address, or if the owner or keeper cannot be served personally or by mail, by publication in a newspaper of general circulation in the county.

c. Contents of Declaration: The declaration shall state:

- (1) The description of the animal;
- (2) The name and address of the owner or keeper of the animal, if known;
- (3) The whereabouts of the animal, if not in the custody of the owner or keeper;
- (4) The facts upon which the declaration of potentially vicious animal is based;
- (5) The owner's or keeper's right to a hearing if the person objects to the declaration;
- (6) The restrictions placed upon the animal as a result of the declaration of potentially vicious animal; and
- (7) The penalties for a violation of such restrictions.
- (8) If the Police Chief, City Clerk, or other designee so determines, that the owner or keeper be required to have microchip identification implanted in the animal.

d. Objections of the Owner: The owner or keeper may object to the declaration of potentially vicious animal by requesting a hearing before the City Council by submitting a written request to the City Clerk within ten (10) days of the date of mailing of the declaration, or within (10) days of the publication of the declaration.

- (1) If the City Council finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
- (2) If the City Council finds sufficient evidence to support the declaration, the City Council shall provide the owner with written notice of such determination within ten (10) working

days after the hearing.

(3). Prior to the hearing, the owner or keeper shall confine the animal in a fenced enclosure on the owner's or keeper's premises. It shall be unlawful for the owner or keeper of the potentially vicious animal to allow or permit such animal to go beyond the premises of the owner or keeper unless such animal is securely leashed and humanely muzzled or otherwise securely restrained.

(4) If it is determined by the animal control officer or law enforcement officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this article. The owner or keeper of the animal shall be liable to the city or county where the animal is impounded for the costs and expenses of keeping the animal if the animal is later determined to be potentially vicious. When an animal has been impounded and it is not contrary to public safety, the animal control officer shall permit the animal to be confined at the owner's expense in a health services department approved kennel or veterinary facility.

3. Notification Of Status Of Potentially Vicious Animal.

a. The owner or keeper shall immediately notify the health services department when an animal has been classified as potentially vicious and the following occurs:

- (1) Is loose or unconfined;
- (2) Has bitten a human being or attacked another animal;
- (3) Is sold, given away, or dies; or
- (4) Is moved to another address.

b. Prior to a potentially vicious animal being sold or given away, the owner or keeper shall provide the name, address and telephone number of the new owner or keeper to the health services department. The new owner or keeper shall comply with all the requirements of this chapter.

4. Exceptions To Classification:

a. No animal may be declared potentially vicious if:

(1) Any injury or damage was sustained by a person who, at the time of the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal, or was committing or attempting to commit a crime;

(2) The animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault; or

(3) The injury or damage was sustained by a person or a domestic animal, which at the time of the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal.

b. No animal may be declared potentially vicious if the injury or damage to a domestic animal was sustained while the animal was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal.

5. Disposition Of Potentially Vicious Animal Pending Compliance with this Ordinance:

a. License and Vaccination; Fee: A potentially vicious animal shall be properly licensed and vaccinated, as required by city ordinances. The potentially vicious designation shall be included in the registration records of the animal. The city may charge a potentially vicious animal fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the animal.

b. Confinement; Restraint: A potentially vicious animal, while on the owner's or keeper's property, shall at all times be kept indoors or in a securely fenced yard from which the animal cannot escape and into which children cannot trespass. A potentially vicious animal may be off the owner's or keeper's premises only if restrained by a substantial leash, of appropriate length, and if the animal is under the control of a responsible adult and is humanely muzzled.

c. Notice of Change of Ownership and Location: If a potentially vicious animal dies, is sold, is transferred or permanently removed from the city, the owner or keeper of the animal shall notify the health services department of the changed condition and new location of the animal in writing within two (2) working days.

(Ord. 03-04, Passed September 9, 2003)

4-1-9 KENNEL DOGS. Dogs that are kept or raised in a kennel licensed by the State solely for the bona fide purpose of sale or breeding, and which are kept under constant restraint, are not subject to the provisions of this ordinance.

(Ord. 03-04, Passed September 9, 2003)

(Ord. 2012-02, Passed March 13, 2012)

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 2 PARKS AND RECREATION

4-2-1 Hours of Operation

4-2-2 Removal of Unattended Vehicles

4-2-1 HOURS OF OPERATION.

1. No person shall enter or remain in the Peosta City Park other than during the hours designated in this section.
2. The Peosta City Park shall be open for use by the public from 6:00 A.M. to 11:00 P.M. daily.
3. The Mayor of Peosta or authorized representative shall have the authority to open or close the Peosta City Park and recreation facilities whenever it is deemed necessary in the interest and safety of the public.

4-2-2 REMOVAL OF UNATTENDED VEHICLES.

1. Any motor vehicle left unattended in the Peosta City Park after closing thereof, shall be deemed abandoned and the Mayor of Peosta or authorized representative may cause the same to be towed from the Park and the same shall not be redeemed by the owner or the person responsible therefor until the reasonable towing and storage charges are paid.

(Ord. 90-02, Passed August 7, 1990)

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 3 PEOSTA COMMUNITY CENTRE BOARD OF DIRECTORS

4-3-1	Created; Composition; Appointment	4-3-4	Organization
4-3-2	Terms; Filling of Vacancies	4-3-5	Powers and Duties
4-3-3	Compensation	4-3-6	Executive Director
		4-3-7	Reports

4-3-1 **CREATED; COMPOSITION; APPOINTMENT.** There is hereby created a Board of Directors to provide leadership, organization, structure and planning for the Peosta Community Centre and Peosta Sports Complex. The Peosta Community Centre Board of Directors shall consist of five (5) members, who are members in good standing of the Peosta Community Centre, and none of whom hold any elective position in the City government. Appointments to the Board of Directors shall be recommended by the Board and approved by the City Council. The City Council shall have the authority and power to remove a Board member based on recommendation of the Board.

4-3-2 **TERMS; FILLING OF VACANCIES.** The term of office of the members of the Board is three (3) years. The terms are staggered so that two members are appointed each year with the exception that each third year only one member is appointed. Terms shall begin March 1. Vacancies occurring on the Board caused by resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments.

(Ord. 2016-02, Passed April 12, 2016)

4-3-3 **COMPENSATION.** Each Board member shall serve without compensation for service, but shall be entitled to reimbursement for necessary and actual expenses incurred in the discharge of his or her duties.

4-3-4 **ORGANIZATION.** The powers and duties of the Board shall be exercised by the Board. A majority of the Board members shall constitute a quorum for the purpose of conducting business and exercising the powers of the Board of Directors, and for all other purposes. The Board shall adopt such by-laws, rules and regulations governing its organization and procedures as may be deemed necessary. Action may be taken by the Board upon a vote of a majority of the Board members present, unless in any case the rules or regulations adopted by the Board require a larger number. The Board elects its Chairperson, Vice Chairperson and Secretary every year from among the Board members.

4-3-5 **POWERS AND DUTIES.** The Board shall have the following powers and duties:

1. To determine the Board's mission and purpose.
2. To receive and make recommendations to the City Council relative to hiring and firing the Executive Director. The City Council shall have the sole authority and power to hire and fire the Executive Director.

3. To support the Executive Director and review his/her performance and make reports to the City Council.

4. To oversee the operation of the Peosta Community Centre and Peosta Sports Complex through broad policies and objectives.

5. To elect a Secretary who shall have the duty to keep the true and correct record of all proceedings at all meetings and to file the same with the City Clerk where they shall be available for public inspection at any reasonable time. The Secretary and presiding officer at the meeting shall sign the minutes, resolutions and other official documents adopted or approved by the Board. The minutes, along with the next meeting agenda, shall be mailed to the members and posted for public inspection at least four (4) days before the meeting. Minutes from Board meetings shall also be approved by the City Council at the first regular meeting of the month.

6. To determine salaries and wages for employees of the Peosta Community Centre. Salaries and wages to be paid to the Executive Director and all employees of the Peosta Community Centre shall be included in the annual budget. Salaries and wages shall be recommended by the Board but subject to final approval by the Council.

7. To submit a complete annual line item budget of all anticipated fiscal year expenditures. This budget together with the recommendations of the board shall be subject to final approval by the Council.

8. To make rules and regulations for the use of the Peosta Community Centre and Peosta Sports Complex or for the conduct of recreation programs.

4-3-6 EXECUTIVE DIRECTOR. An Executive Director of the Peosta Community Centre shall be recommended by the Peosta Community Centre Board of Directors and approved by the City Council. The Director shall assume such duties established in the job description approved by the Board of Directors. The Director shall be under the direct supervision of the Board. The Board of Directors will receive from the Director such assistance and information as necessary in the performance of its duties as specified in Section 5 of this chapter. The Director shall meet regularly with the Board of Directors to discuss policies and programs relating to the Peosta Community Centre and Peosta Sports Complex.

4-3-7 REPORTS.

The revenues and expenditures of the Peosta Community Centre shall be reported monthly in the City Clerk's report to the City Council at its regular meetings.

The Board Chairperson or Executive Director of the Peosta Community Centre shall attend the first regular meeting of the City Council each month.

(Ord. 2007-01, Passed February 13, 2007)

TITLE IV MENTAL AND PHYSICAL HEALTH

CHAPTER 4 NOISE CONTROL

4-4-1	Purpose	4-4-6	Sounds not Allowed
4-4-2	Scope of Regulations	4-4-7	Exceptions to this Chapter
4-4-3	Definitions	4-4-8	Other Laws and Ordinances
4-4-4	Noise Disturbance Prohibited		

4-4-1 **PURPOSE.** The purpose of this chapter is to establish standards for the control of noise pollution in the city thereby protecting the public's health, safety and general welfare.

4-4-2 **SCOPE OF REGULATIONS.** This chapter applies to the control of all noise originating within the limits of the City, except in the following cases;

1. A State or Federal agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or

2. The City Council may grant a variance by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the community.

4-4-3 **DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. "Application" means the application submitted to the City requesting an Outside Services permit.

2. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

3. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.

4. "Holiday" means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

5. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

6. "Noise disturbance" means sounds defined in the "sounds not allowed" section of this chapter.

7. “Plainly Audible” means any sound that can be detected by a person using his or her unaided hearing faculties, including, but not limited to, the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

8. “Powered model vehicle” means any self-propelled, airborne, waterborne or landborne model, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.

9. “Real property boundary” means any imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property division.

10. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” (or “motorcycle” if two or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are snowmobiles, mini-bikes, stockcars, four wheelers or motorboats.)

11. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

12. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

13. “Sound equipment” means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except; however, “sound equipment” does not include sirens and other equipment used to alert persons to the existence of an emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells or chimes; mobile radio or telephone signaling devices; and automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted there from is not audible for more than fifty (50) feet from such automobile or truck.

4-4-4 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make, continue, cause or allow any noise disturbance within the City.

4-4-5 SOUNDS NOT ALLOWED. The term “noise disturbance” means any of the following sounds:

1. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately-owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency

signaling device for the essential testing of such device, when conducted between the hours of 5:00 p.m. and 8:00 a.m.

2. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or compact disk player, or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way if the sound emitted there from is audible for more than 50 feet.

3. Chain Saws. The sound emitted by motor-powered chain saws, tree trimming equipment and weed cutters operated between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

4. Construction Noise. The sound made by privately-owned and operated tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

5. Engine Brakes and Compression Brakes. The sound made by an engine brake device, compression brake, or a mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, at all times.

6. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

7. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

8. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, trash cans, containers, receptacles, and/or dumpsters between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

9. Musical Instruments. The sound made by a drum, horn, reed and/or string instrument, or other musical instrument or device which is played between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

10. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass.

11. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private or City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays, provided; however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a “noise disturbance” unless made so by some provisions of this section.

12. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. Saturdays, Sundays and holidays.

13. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized, at all times.

14. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle, at all times.

15. Selling by “Hawking” or “Barking.” The sound of selling by shout or outcry when made within the area of the city zoned residential or commercial.

16. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way, or in any building, or upon any public or private premises, if “plainly audible” for more than 100 feet from the real property boundary, at all times unless the operator(s) has an Outdoor Services Permit. Any Commercial business that regularly uses, operates, or causes to be used or operated, sound equipment, must close their doors to abate the sound at any time, unless such business has an Outdoor Services Permit or meets the limitations specified in this chapter, at all times.

4-4-6 EXCEPTIONS TO THIS CHAPTER

1. This article shall not apply to the following:
 - a. The emission of sound for the purpose of alerting persons to the existence of an Emergency. This is to include the public address systems.
 - b. The emission of sound in the performance of emergency work.
 - c. Rail and air transportation and public mass transportation vehicles.
 - d. The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty.
 - e. The emission of sound from activities in the discharge of weapons, fireworks displays, or parades permitted by the City Council.

f. The emission of sound from activities where the state or federal agency has adopted a different standard or rules than that prescribed within this Chapter.

g. The emission of sound during nonprofessional athletic and school events or practices.

h. The emission of sound from on-site stationary trash compactors, municipal or municipally contracted compacter trucks loading or unloading of yard waste, recyclable material, trash, and garbage. In cases where the sound originates within 300 feet of a residential area land use of noise sensitive land use exemption shall only apply between the hours of 7:00 a.m. to 10 p.m.

i. The emission of sound during the operation, maintenance, repair, and cleaning of public streets and facilities. Work performed by or for public utilities.

j. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds.

k. The emission of sound by church carillons, bells or chimes, be it electronic or manual.

l. The emission of sound by snow removal equipment on public and private property.

2. Although exempt from the maximum permissible sound levels of this Chapter, an Outdoor services permit is required in all cases where sound equipment and sound amplifying equipment will be used. 11 p.m. is the time limit.

4-4-7 OTHER LAWS AND ORDINANCES. No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the City or State or Federal statutes.

(Ord. 2010-03, Passed July 28, 2010)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 1 FACTORY BUILT HOMES

6-1-1	Definitions	6-1-4	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes	6-1-6	Building Requirements
6-1-3	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-7	Utility Connections

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))
(ECIA Model Code Amended in 2010)

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))
(ECIA Model Code Amended in 2010)

3. "Mobile home" means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.

(Code of Iowa, Sec. 635.1)

4. "Mobile home park" shall mean any site, lot, field or tract of land under common ownership upon which two or more occupied mobile homes, manufactured homes, modular homes or a combination of the 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(4))
(Ord. 03-04, Passed September 9, 2003)

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

(Code of Iowa, Sec. 435.1(7))
(ECIA Model Code Amended in 2010)

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**, 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.

6-1-6 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 (except that 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 September 9, 2003).

(Code of Iowa, Sec. 435.26)

(Ord. 03-04, Passed September 9, 2003)

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 of \$125.00. No additional permits shall be required.

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

(Ord. 03-04, Passed September 9, 2003)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 2 UTILITIES - SANITARY SYSTEM

6-2-1	Purpose	6-2-5	Building Sewers and Connections
6-2-2	Definitions	6-2-6	Use of the Public Sewers
6-2-3	Prohibited Acts and Use of Public Sewers Required	6-2-7	Protection from Damage
6-2-4	Private Sewage Disposal	6-2-8	Powers and Authority to Inspectors
		6-2-9	Penalties

6-2-1 PURPOSE. The purpose of this Ordinance is to govern the use of the wastewater treatment system within the City of Peosta, Iowa, in order to protect the public health, safety and welfare and to insure that the sewage system will deliver the service for which it was planned.

(Ord. 89-05, Passed September 12, 1989)

6-2-2 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. "Contributor" shall mean any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the utility sewer system.

6. "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.

7. "Industrial Park" shall mean the West Dubuque Industrial Park.

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

9. "Inspector" shall mean the person duly authorized by the City to inspect and approve the installation of building sewers and their connections to the utility sewer system; and to inspect such sewage as may be discharged therefrom.

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

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

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

13. "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.

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

15. "Sanitary Sewage" shall mean sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm or surface water and industrial waste.

16. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

17. "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.

18. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

19. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

20. "Sewer" shall mean a pipe or conduit for carrying sewage.

21. "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.

22. "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.

23. "Superintendent" shall mean the Superintendent of Sewage Works/and or of Water Pollution Control of the City of Peosta, Iowa or the Superintendent's authorized deputy, agent, or representative or a person authorized by the City Council.

(Ord. 03-04, Passed September 9, 2003)

24. "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.

25. "The Utility" shall mean the owner of the Industrial Park sanitary sewer system originally owned and installed by the Dubuque Area Industrial Development Corporation.

26. "Utility Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by the utility.

27. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 89-05, Passed September 12, 1989)

6-2-3 PROHIBITED ACTS AND USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

2. It shall be unlawful for any person to connect a roof downspout, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a utility sewer.

3. It shall be unlawful for any person to open or enter any manhole of the sewer system, except by authority of the utility.

4. 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.

5. 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))

6. 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.

7. 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))

8. Whenever any such connection is ordered and the person owning the real estate shall fail to make the connection within the time fixed by the council, the Council shall cause such connection to be made, and shall assess against the property for which such connection is made, the cost and expense thereof.

a. Whenever the Council shall cause such connection to be made, the person having charge of the making of the same shall make a return of the actual cost and expense thereof to the Council at its first regular meeting thereafter, giving a detailed statement and the description of the property, and the names of the owners of the same, and the amount of cost and expense for making said connection.

b. Upon the making of the return as prescribed in subsection 8.b. above, it shall be the duty of the City Clerk to give notice to all whom it may concern, by publication as provided by Iowa law, that the cost and expense will be assessed against the property for which such connection has been made by the City, and will be acted upon at the first regular meeting of the Council thereafter, and that any objections thereto will be heard at the Council meeting.

c. After hearing objections, if there be any made, and making such alteration in the assessment as the Council may deem just, the Council shall make the assessment; thereupon the City Clerk shall give a certified copy of the assessment to the Treasurer; and it shall be the duty of the person owning the property so assessed to pay the assessment within thirty (30) days after the levy of the assessment. At the expiration of thirty (30) days, the Treasurer shall report those having failed to pay, whereupon the City Clerk shall certify said assessment, if there are any delinquent thereon, to the County Auditor to be collected and paid over to the County Treasurer in the same manner as other taxes.

(Ord. 89-05, Passed September 12, 1989)

6-2-4 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of 6-2-3(7), 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 authorization from the City Council of the City of Peosta or its duly appointed representative. The owner shall then satisfy any and all requirements of the Dubuque County

Board of Health. The application shall furnish such plans, specifications, and other information as are deemed necessary by the Dubuque County Board of Health. The construction, maintenance and usage of said private sewage disposal system shall be subject to any and all requirements as imposed by the Dubuque County Board of Health.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City of Peosta. The Superintendent or designated inspector 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 or inspector 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 requirements 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 time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-4(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 article 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 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))

(Ord. 89-05, Passed September 12, 1989)

6-2-5 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.

(Ord. 03-04, Passed September 9, 2003)

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 Peosta and deposited with the City Clerk-Treasurer 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 Peosta pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Peosta 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.

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), and applicable specifications of the American Society for Testing and Materials (ASTM).

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 installing a wye branch fitting or a saddle approved by the City and using a hole cutter. Chisel cutting is not allowed. 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:

Cast Iron Soil Pipe

- (1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings" or ASTM A888 "Hubless Cast Iron Soil Pipe and Fittings."
- (2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."
- (3) Couplings – CISPI310 "Coupling for Hubless CISP and Fittings"

Polyvinyl Chloride Pipe (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, For "PVC Sewer Pipe."

Minimum wall thickness (SDR 26 or 23.5):

4" - 0.162"

6" - 0.241"

8" - 0.323

- (2) Fittings: ASTM F1336 for "PVC Gasketed Sewer Fittings," SDR 26 or 23.5

- (3) Joints – A.S.T.M. D-3212, "Flexible Elastomeric Seals."
(Ord. 03-04, Passed September 9, 2003)

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. Appropriate pipe bedding shall be placed. 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 crushed stone 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 D2321). 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. 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. If the operation, maintenance, repair, and/or blockage, requires street removal, the City will be responsible for, or at the option of the City pay

for or reimburse the property owner for the removal and replacement of asphalt, concrete, oil and base rock. The property owner shall be responsible for removal and disposal of all excavation materials and shall be responsible for placement and proper compaction of imported crushed stone backfill. The City must approve and authorize costs, contractor and specifications of removal and replacement of said street before the work is started. All work shall be done in accordance with required regulations and specification in place at that time.

(Ord. 02-02, Passed February 19, 2002)

6-2-6 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:

(Ord. 89-05, Passed September 12, 1989)

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 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, or natural outlet. Combined sewers shall not be permitted in the City.

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. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals,

create a nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the utility sewer.

d. 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.

e. 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.

f. 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. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

d. 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.

e. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

f. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

g. 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.

h. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

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

j. 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.

k. 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 Section 6-2-6(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 6-2-6(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.

(Ordinance. 89-05, Passed September 12, 1989)

6-2-7 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.

(Code of Iowa, Sec. 716.1)

(Ord. 89-05, Passed September 12, 1989)

(Ord. 03-04, Passed September 9, 2003)

6-2-8 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 6-2-8(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 6-2-6(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.

(Ord. 89-05, Passed 12 September 1989)

6-2-9 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except 6-2-7 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 who shall continue any violation beyond the time limit provided for in 6-2-9(1), shall be subject to penalties as described in Chapter 1-3, Penalties. Each day in which any such violation shall continue shall be deemed a separate offense.

(Ord. 03-04, Passed September 9, 2003)

3. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

(Ord. 89-05, Passed September 12, 1989)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 3 UTILITIES - WATER SYSTEM

REGULATIONS AND RATES

- 6-3-1 Enforcement
- 6-3-2 Adoption of State Plumbing Code
- 6-3-3 License Required
- 6-3-4 Mandatory Connections
- 6-3-5 Permit
- 6-3-6 Water Supply Control
- 6-3-7 Bulk Water Sales
- 6-3-8 Making the Connection
- 6-3-9 Excavations
- 6-3-10 Inspection and Approval
- 6-3-11 Completion by the City

- 6-3-12 Shutting off Water Supply
- 6-3-13 Service Line Ownership and Maintenance
- 6-3-14 Meter Requirements
- 6-3-15 Meter Accuracy and Test

CONTAMINATION OF WELLS

- 6-3-16 Definitions
- 6-3-17 Location
- 6-3-18 Proscriptions
- 6-3-19 Use of Structures

REGULATIONS AND RATES

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-Treasurer 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 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

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

6-3-7 BULK WATER SALES. Any bulk-water sales will require a 48-hour minimum notice to be scheduled when an authorized city official is available to open the fire hydrant. There must be an air-gap separation maintained at all times from the potable water supply tank being filled. Bulk water rates will be established as a policy and are subject to be changed as deemed necessary by the Peosta City Council.

(Ord. 02-03, Passed February 12, 2002)

6-3-8 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the superintendent or the superintendent's authorized assistant. All taps in the water main must be at least (12) inches apart and on the side and near the top and not in any case within 18 inches of the hub.

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

6-3-9 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement 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 SHUTTING OFF WATER SUPPLY. After giving reasonable notice as described in Section 6-5-13(1), the superintendent may shut off the supply of water to any customer because of any substantial violation of this chapter. The supply shall not be turned on again until all violations have been corrected and the superintendent has ordered the water to be turned on.

6-3-13 SERVICE LINE OWNERSHIP AND MAINTENANCE. The City of Peosta shall install and maintain water mains and required support and supply equipment. The property owner shall install and maintain service lines from the corporation, including the saddle if one exists, to the meter including excavation and replacement of the lateral service line. If applicable, the City will be responsible for, or at the option of the City pay for or reimburse the property owner for the removal and replacement of asphalt, concrete, oil and base rock. The property owner shall be responsible for removal and disposal of all other excavation materials

and shall be responsible for replacement and proper compaction of imported crushed stone backfill. The City must approve and authorize costs, contractor and specifications of removal and replacement of said street before the work is started. All work shall be done in accordance with required regulations and specifications in place at that time.

(Ord. 02-03, Passed Feb. 19, 2002)

If any part of the service line is not properly maintained by the property owner, the City of Peosta has the authority to make all necessary repairs to the service line and recover from the property owner any and all costs incurred. Payment by the property owner must be made in full before water service will be restored.

(Ord. 02-05, Passed June 11, 2002)

6-3-14 METER REQUIREMENTS

1. Residents may, at their expense, install a second meter for outdoor use provided that water from this meter does not flow into the sanitary sewer system. All installations of this type must be inspected by the city before the service begins.

2. Meters for residential use (including outdoor water use) must be 5/8" in size and purchased from the City of Peosta. Installation of the meter shall be the responsibility of the homeowner. All meter installations shall be inspected by the water superintendent before water service begins. Touchpad readers for the subtract meter shall be located on the same side of the structure as the touchpad for the whole house meter.

3. All commercial and industrial establishments requiring a meter larger than 5/8" shall purchase a meter that will accurately measure the amount of water used and install an outside remote reader. All meters must have the approval of the water superintendent before installation. All meter installations shall be inspected by the water superintendent before water service begins.

(Ord. 03-03, Passed July 8, 2003)

(Ord. 03-04, Passed September 9, 2003)

6-3-15 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 5% 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 (6) months. If the meter is found to be accurate or slow less than 5% percent fast, the patron shall pay the reasonable costs of the tests.

Any meter found inaccurate beyond a tolerance of 5% percent shall not be returned to service until properly adjusted.

(Ord. 03-04, Passed September 9, 2003)

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

CONTAMINATION OF WELLS

(Ord. 02-06, Passed August 29, 2002)

(Ord. 03-04, Passed September 9, 2003)

6-3-16 DEFINITIONS. For purposes of this ordinance, the following terms shall be defined as follows:

1. "Public water well" shall mean any well owned and/or constructed by the City of Peosta.

2. "Deep Well" shall mean a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

3. "Shallow Well" shall mean a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

4. "All Wells" shall mean any public water well located in the City of Peosta.

6-3-17 LOCATION. No structure or facility of the types enumerated on Attached Schedule A shall be located within the distances set forth therein, from a public water well within the City of Peosta, Iowa:

6-3-18 PROSCRIPTIONS. Proscriptions set forth in this ordinance herein shall apply to all public water wells existing within the City of Peosta, except public water wells formerly abandoned for use by resolution of the City Council.

6-3-19 USE OF STRUCTURES. The use of structures or facilities existing at the time of enactment of this Ordinance may be continued even though such use may not conform with the regulations of this Ordinance. However, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of this ordinance.

Schedule A

SEPARATION DISTANCES FROM WELLS

SOURCE OF CONTAMINATION		REQUIRED DISTANCE FROM WELL, IN FEET								
		5	10	25	50	75	100	200	400	1000
WASTEWATER STRUCTURES										
POINT OF DISCHARGE TO GROUND SURFACE	Well house floor drains	A								
	Water treatment plant wastes				A					
	Sanitary & industrial discharges								A	
SEWERS AND DRAINS	Well house floor drains to surface	A-EWM	A-WM	A-WM	A-SP					
	Well house floor drains to sewers			A-WM	A-WM	A-SP	A-SP			
	Water plant wastes			A-WM	A-WM	A-SP	A-SP			
	Sanitary & storm sewers, drains			A-WM	A-WM	A-SP	A-SP			
	Sewer force mains					A-WM	A-WM	A-WM	A-SP	A-SP
LAND DISPOSAL OF WASTES	Land application of solid wastes						D	S		
	Irrigation of wastewater						D	S		
Concrete vaults & septic tanks							D	S		
Mechanical wastewater treatment plants								D	S	
Cesspools & earth pit privies								D	S	
Soil absorption fields								D	S	
Lagoons									D	S
CHEMICALS										
Chemical application to ground surface							D	S		
CHEMICAL AND MINERAL STORAGE	Above ground						D	S		
	On or under ground							D	S	
ANIMALS										
Animal pasturage					A					
Animal enclosure							D	S		

SOURCE OF CONTAMINATION		REQUIRED DISTANCE FROM WELL, IN FEET								
		5	10	25	50	75	100	200	400	1000
ANIMAL WASTES	Land application of solids						D	S		
	Land application of liquid or slurry						D	S		
	Storage tank						D	S		
	Solids stockpile							D	S	
	Storage basin or lagoon								D	S
Earthen silage storage trench or pit							D	S		
MISCELLANEOUS										
Basements, pits, sumps			A							
Flowing streams or other surface water bodies					A					
Cisterns					D		S			
Cemeteries								A		
Private wells								D	S	
Solid waste disposal sites										A

A: All wells
 D: Deep wells
 S: Shallow wells
 EWM: Water main pipe specifications encased in 4" of concrete
 SP: Pipe of sewer pipe specifications
 WM: Pipe of water main specifications

SCHEDULE A

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	6-4-8	Disposal of Hazardous Waste
6-4-2	Administration	6-4-9	Enforcement
6-4-3	Solid Waste Collection	6-4-10	Withholding of Services
6-4-4	Separation of Solid Waste Required	6-4-11	Nuisance
6-4-5	Mixed Household Waste Collection	6-4-12	Prohibited Acts
6-4-6	Recyclable Waste Collection	6-4-13	Necessity of Permit
6-4-7	Collection Locations	6-4-14	Anti-Scavenging

6-4-1 DEFINITIONS. For purposes of this Ordinance, the following terms shall be defined as follows:

1. "City" shall mean the City of Peosta.
2. "Garbage" shall mean all solid and semi-solid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and shall include all such substances from all residences.
3. "Hazardous Waste" shall mean waste materials, including, but not limited to, poisons, pesticides, herbicides, acids, caustics, biohazardous waste, flammable or explosive materials and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.
4. "Mixed Household Waste" shall mean solid waste which is not recyclable waste.
5. "Owner" shall mean, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises and as between such parties, the duties, responsibilities, liabilities and obligations hereafter imposed shall be joint and several.
6. "Premises" shall mean a building or part of a building and its grounds.
7. "Recyclable Waste" shall mean clean and dry newspapers and inserts, magazines, mixed home and office paper, corrugated cardboard and brown paper grocery bags, aluminum and tin cans, plastic containers, jugs and bottles that have a #1 PET or a #2 HDPE in the recycling symbol and other items as deemed necessary by the City Council.
8. "Refuse" shall mean putrescible and nonputrescible wastes including, but not limited to, garbage, rubbish, and ashes.

9. "Rubbish" shall mean nonputrescible solid waste consisting of combustible and noncombustible wastes.

10. "Solid Waste" shall mean garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials. Solid waste does not include toxic and hazardous wastes as defined by the Iowa Department of Natural Resources.

11. "Solid Waste Container" shall mean a container for the storage of garbage or rubbish which is:

- a. Provided with a handle and tight fitting cover.
- b. Made of noncorrosive material.
- c. Water-tight.
- d. With a capacity of no more than thirty five (35) gallons.

(Ord. 03-04, Passed September 9, 2003)

6-4-2 ADMINISTRATION. Administration of this chapter shall be by the City Clerk-Treasurer or such employee designated by the City Clerk-Treasurer.

6-4-3 SOLID WASTE COLLECTION.

1. Residential premises. The City will provide solid waste collection through a City contractor for all single family residences and any multi-family premises at the request of the building owner, within the City that are in compliance with the provisions and the regulations of this chapter. Such collection shall be provided on a regular basis at least once a week, weather and calamities allowing. Solid waste which is collected by the City as a part of its regular residential collection shall include recyclable waste and mixed household waste. The City will not collect any of the following solid waste:

- a. Hazardous waste,
- b. Building demolition materials,
- c. Commercial solid waste,
- d. Yard waste,
- e. Any substance or material determined to be unacceptable for collection.

(Ord. 2010-05, Passed October 12, 2010)

2. Commercial and Industrial Premises. The owners of commercial and industrial premises are responsible for the collection and transportation of all solid waste resulting from any operation on such premises.

(Ord. 2010-05, Passed October 12, 2010)

3. Construction Premises. The owner or contractor of any premises upon which construction or demolition takes place shall be responsible for the collection and transportation of all of the building demolition materials on said premises.

6-4-4 SEPARATION OF SOLID WASTE REQUIRED. All residential solid waste to be collected by the City Contractor shall be separated by the owner, operator or occupant into "recyclable waste" and "mixed household waste".

The Council shall designate by ordinance or resolution what solid wastes shall be included in the above classifications. All residents of the City shall be deemed to be on notice of the designations of the Council and the provisions of this chapter regarding solid waste collection and disposal.

6-4-5 MIXED HOUSEHOLD WASTE COLLECTION. All mixed household waste to be collected by the City Contractor shall be stored for collection in a solid waste container or a garbage bag not greater than thirty (30) gallons in size. Only mixed household waste as defined by this chapter and the regulations of the Council, shall be stored in those containers and picked up for collection by the City Contractor.

6-4-6 RECYCLABLE WASTE COLLECTION. All recyclable waste to be collected by the City Contractor shall be stored in recycling containers approved by the City or provided by the City Contractor. The owner and resident of the premises are responsible for the upkeep and maintenance of the recycling container and if a container is damaged, the owner and resident will be responsible for the cost of replacement. All recyclable waste shall be deposited in the recycling container and placed at curbside for pickup by the City Contractor.

6-4-7 COLLECTION LOCATIONS. All waste including both recyclable waste and mixed family waste shall be placed for collection at the curb or property line adjacent to the City street. Placement of the containers at the curb or property line shall occur prior to seven o'clock (7:00) a.m. on the regularly scheduled collection day. Containers may be placed at the curb or property line no earlier than four o'clock (4:00) p.m. on the day preceding the regularly scheduled collection day. All solid waste containers shall be removed from the curb or property line on the same day that the collection is completed. Solid waste which is not placed at the curb in compliance with this chapter shall be collected. For solid waste to be in compliance with this chapter, it must be segregated as required in Section 6-5-6 into recyclable waste and mixed family waste. Failure by the City Contractor to collect solid waste not in compliance with the provisions of this chapter shall not relieve the resident, owner, operator, or occupant of liability for violations of this chapter.

6-4-8 DISPOSAL OF HAZARDOUS WASTE. Disposal of hazardous waste shall be the responsibility of the owner, operator or occupant of a residence and such person shall be required to comply with all governmental regulations regarding said disposal and shall be required to pay any costs thereof.

6-4-9 ENFORCEMENT. In order to insure compliance with the provisions of this chapter, together with all applicable State statutes, the regulations of the State Department of Natural Resources, and the regulations of the County Board of Health, the Mayor or the Mayor's authorized representative (which may include the City Contractor) is hereby authorized to inspect all phases of the solid waste storage and collection in the City. The Mayor or the Mayor's authorized representative shall further enforce the provisions of this chapter by selection of any appropriate method allowed by this chapter or the provisions of State law.

6-4-10 WITHHOLDING OF SERVICES. In the event an inspection reveals that any resident, owner, operator, or occupant of any residence in the City is in violation of the provisions of this chapter, the City may elect, in addition to any other remedies, to withhold solid waste services from that person. Election to withhold services shall not prevent the City from taking additional action against the person or premises which is allowable under this chapter or Federal or State law. In the event services are withheld, the regular monthly fee shall continue to be assessed.

6-4-11 NUISANCE. In the event any person is in violation of this chapter or Federal law or regulations, State law or the regulations of the Iowa Department of Natural Resources, County ordinances or the regulations of the County Board of Health, such violation shall constitute a nuisance and the City may abate the nuisance.

6-4-12 PROHIBITED ACTS. The following acts are hereby prohibited and the performance of any such acts by any person is a violation of this chapter and may be punished as provided herein:

1. Depositing solid waste in a container other than a solid waste container or garbage bag.
2. Burning or incinerating any garbage, rubbish, or refuse within the City, except by permission of the City Council. 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. This section shall not apply to outdoor cooking appliances used for residential or recreational purposes using commonly acceptable fuels.
3. Depositing refuse or garbage or yard waste or other solid waste not designated as recyclable in a recycling container.
4. Littering on the streets, alleys, parks, playgrounds and other public places of the City or upon any real estate or any commercial establishment or governmental institutions in the City or upon any private property in the City whether residential or commercial.

5. Littering while a driver or passenger in a motor vehicle.

6. Operating a truck of any kind within the City carrying a load of materials so constructed or loaded so as to permit part of its load whether litter or other solid waste including sand or gravel to drop, sift, leak, or otherwise fall therefrom.

7. Depositing or attempting to deposit for collection any solid waste in solid waste containers when such solid waste is declared by this chapter not subject to regular collection by the City Contractor.

8. Interfering in any manner with the collection, storage, transportation of solid waste as established by the provisions of this chapter.

9. Failing in any manner to follow the requirements of this chapter regarding any mandatory provision regarding solid waste management.

6-4-13 NECESSITY OF PERMIT. No person shall collect garbage or rubbish except such person's unless otherwise by contract or permit approved by the City Clerk-Treasurer and issued by the Clerk-Treasurer.

(Ord. 02-01, Passed February 19, 2002)

(Ord. 03-04, Passed September 9, 2003)

6-4-14 ANTI-SCAVENGING. It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

(ECIA Model Code Amended in 2017)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 5 UTILITIES - BILLING CHARGES (INCLUDES SEWER)

6-5-1	Utility Defined	6-5-9	Fees and Charges for Solid Waste Management/Refuse Collection Rates
6-5-2	Districts	6-5-10	Rate of Sewer Rent and Manner of Payment
6-5-3	Disposition of Fees and Charges	6-5-11	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-5-4	Billing, Penalty		
6-5-5	Discontinuing Services, Fees, Reactivation		
6-5-6	Lien Exemption		
6-5-7	Reserved		
6-5-8	Water Rates		

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 three sewer and water districts which encompasses all of the City of Peosta, Iowa: Residential Rates, Commercial Located in Residential Areas, Industrial Park.

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-Treasurer.

1. Utility Funds. All revenues and moneys derived from the operation of the City of Peosta Utility Systems shall be paid to and held by the City separate and apart from all other funds of the City, and all of said sums and all other funds and moneys incident to the operation of said systems, as may be delivered to the City, shall be deposited in separate funds designated the "Water Fund, Sewer Fund, and Solid Waste Fund", and the Council shall administer said funds in the manner provided by the Code of Iowa and all laws pertaining thereto.

2. System of Accounts. The City shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the utility systems, and when required the Council shall cause an audit to show the receipts and disbursements of the utility systems. The City shall be required annually to prepare a budget of the Utility Systems to show the required revenues and expenses. The City shall review the monthly user charge as it deems required and, if necessary, the user charge rates will be adjusted to produce adequate income to retire the indebtedness, meet operation, maintenance and replacement needs, and establish required reserves.

6-5-4 BILLING, PENALTY. Billing invoices for the rates and charges as established in this chapter shall be sent by the 6th day of the month following service. All billing invoices shall be payable on or before the last day of the month at the office of the City Clerk. Any charge for the service of the system that is not be paid in full by the 1st day of the month following the date it became due and payable, shall be subject to a penalty of five percent (5%) of the amount due and owing. If any billing invoices remain unpaid ten (10) days following the due date, service for the lot, parcel of land or premises affected will be discontinued in the manner described in Section 6-5-5 and shall not be restored except upon satisfactory payment of the delinquent charges.

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

(Ord. 03-04, Passed September 9, 2003)

(Ord. 2017-03, Passed May 23, 2017)

1. All costs incurred by the City of Peosta in collecting unpaid utility bills, including but not limited to costs of disconnection, attorney fees, and court costs shall be paid by said owner or user who is delinquent in payment.

(Ord. 89-04, Passed September 12, 1989)

2. Remedies Cumulative. All remedies of the City of Peosta set forth in Ordinance No. 8903 and this amendment thereto shall be cumulative and none shall exclude any other right or remedy allowed by law or equity, and said rights and remedies may be exercised and enforced concurrently, and whenever and as often as occasion therefor arises.

(Ord. 89-04, Passed September 12, 1989)

3. Any question or dispute which arises concerning the number of connection charges assessed to a person and/or entity whose premises is directly or indirectly served shall be determined by a majority vote of the City Council for the City of Peosta.

(Ord. 89-04, Passed September 12, 1989)

6-5-5 DISCONTINUING SERVICE, FEES, REACTIVATION.

1. If any account is not paid by the first day of the month following the date it became due and payable, 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 regular mail to the address on file with the Clerk 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. There shall be a \$15.00 fee charged for posting a 24 hour water service notice on a customer's door for non-payment of utilities after a disconnect notice has been mailed to the customer.

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

(Ord. 2017-03, Passed May 23, 2017)

2. 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))

3. Reactivation Fees. If water service is discontinued for non-payment of fees and charges, or for the violation of any Ordinance, the property owner shall pay a fee of \$75.00 to the Clerk-Treasurer in addition to the rates or charges then due before such service is restored. No service shall be restored after regular business hours.

(Ord. 02-05, Passed June 11, 2002)

(Ord. 2020-01, Passed January, 28, 2020)

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))

(Amended during 2010 codification)

6-5-6 RESIDENTIAL RENTAL PROPERTY.

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. In the event the final invoice is not paid in full, the deposit shall be applied to any remaining balance before returning any unused portion of the deposit to the tenant. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the

property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. In the event the final invoice is not paid in full, the deposit shall be applied to any remaining balance before returning any unused portion of the deposit to the tenant. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property leased by the tenant, the occupancy date, and payment in full of the deposit as determined by the City Clerk's Office under section 1 and 2 of herein. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in ownership of residential rental property shall require written notice of such change to be given to the City within 30 business days of the property transfer. A change in the ownership of commercial rental property shall require written notice of such change to be given to the City within 10 business days of the transfer date. Until the receipt of notice provided above the City will continue to invoice according to previously submitted information.

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

(Ord. 03-04, Passed September 9, 2003)

(Ord. 2021-05, August 10, 2021)

~~6-5-7 RESERVED CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who have an unacceptable credit record or who have a prior record of failure to pay utility bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, and be set to the nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for three (3) years may 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 billing customer within the City limits:

1. Residential customers shall pay a base rate of \$19.24 per month and a use rate of \$.00267551 per gallon of water used. The base rate and use rate shall increase by 2% on July 1 of each year.

2. Industrial and commercial customers using 20,000 gallons or less per month, shall pay a base rate of \$19.24 per month and a use rate of \$.00514908 per gallon of water used. The base rate and use rate shall increase by 2% on July 1 of each year.

3. Industrial and commercial customers using 20,001 gallons or more per month, shall pay a base rate of \$70.18 per month and a use rate of \$.00514908 per gallon of water used. The base rate and use rate shall increase by 2% on July 1 of each year.

4. Bulk water purchases. When the public works department is able to assist, water may be sold in bulk quantities for a \$50 hookup charge plus a use rate that is 150% of the industrial and commercial customers rate applicable at the time of assistance. Customers will be billed for a new hookup charge once every thirty (30) days.

5. Customers outside the City limits shall pay 150% of the current rates that City residents pay.

(Ord. 2015-02, Passed May 26, 2015)

(Ord. 2016-04, Passed May 24, 2016)

(Ord. 2017-03, Passed May 23, 2017)

(Ord. 2018-01, Passed May 22, 2018)

(Ord. 2019-05, June 25, 2019)

6-5-9 FEES AND CHARGES FOR SOLID WASTE MANAGEMENT/REFUSE COLLECTION RATES.

1. The base fee for the collection of mixed household waste and recycling shall be \$12.61 per month per household. The rate shall increase by 2% on July 1 of each year. Said regular fee shall entitle a household to set out unlimited recycling material and one (1) thirty-three (33) gallon solid waste container or two (2) thirty (30) gallon bags. Their total weight shall not exceed forty (40) pounds. Additional garbage bags not exceeding thirty (30) gallons in size or solid waste containers not exceeding thirty-three (33) gallons in size will be collected, provided a garbage tag is attached to each additional bag or container. The fee for each garbage tag shall be \$1.25. Garbage tags may be purchased at Peosta City Hall, the Peosta Community Centre, Fareway, Peosta Casey's General Store and Peosta Kwik Stop during regular business hours.

(Ord. 2015-03, Passed July 28, 2015)

(Ord. 2017-03, Passed May 23, 2017)

(Ord. 2018-01, Passed May 22, 2018)

2. The fee for collection of recyclable waste shall be \$1.50 per month per household. Each household may set out for collection an unlimited amount of acceptable recyclable waste at no additional charge.

(Ord. 2007-03, Passed May 8, 2007)

(Ord. 2012-04, Passed June 26, 2012)

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

1. Effective January 1, 2020.

a. Residential.

(1) Base rate per month, \$16.33 (minimum bill).

(2) Gallons of water used per month, \$2.947 per 1,000 gallons.

(3) Residential customers whose premises have a private water system shall pay a monthly sewer charge of \$30.33.

b. Industrial and commercial customers using 20,000 gallons or less.

(1) Base rate per month, \$16.33 (minimum bill).

(2) Gallons of water used per month, \$6.135 per 1,000 gallons.

c. Industrial and commercial customers using 20,001 gallons or more.

(1) Base rate per month, \$110.38 (minimum bill).

(2) Gallons of water used per month, \$6.135 per 1,000 gallons.

2. Effective September 1, 2020.

a. Residential.

(1) Base rate per month, \$20.57 (minimum bill).

(2) Gallons of water used per month, \$3.594 per 1,000 gallons.

(3) Residential customers whose premises have a private water system shall pay a monthly sewer charge of \$37.91.

b. Industrial and commercial customers using 20,000 gallons or less.

(1) Base rate per month, \$20.57 (minimum bill).

(2) Gallons of water used per month, \$7.439 per 1,000 gallons.

c. Industrial and commercial customers using 20,001 gallons or more.

(1) Base rate per month, \$138.21 (minimum bill).

(2) Gallons of water used per month, \$7.439 per 1,000 gallons.

3. Effective July 1, 2021.

a. Residential.

(1) Base rate per month, \$27.75 (minimum bill).

(2) Gallons of water used per month, \$4.75 per 1,000 gallons.

(3) Residential customers whose premises have a private water system shall pay a monthly sewer charge of \$51.19.

b. Industrial and commercial customers using 20,000 gallons or less.

(1) Base rate per month, \$27.75 (minimum bill).

(2) Gallons of water used per month, \$9.79 per 1,000 gallons.

c. Industrial and commercial customers using 20,001 gallons or more.

(1) Base rate per month, \$186.43 (minimum bill).

(2) Gallons of water used per month, \$9.79 per 1,000 gallons.

4. Effective July 1, 2022, there shall be an increase of two percent (2%) each year beginning with July 1, 2022 until such time as the City Council of Peosta re-evaluates the rate structure.

5. Customers outside the City limits shall pay 150% of the current rates that the City residents pay.

(Ord. 2016-04, Passed May 24, 2016)

(Ord. 2017-03, Passed May 23, 2017)

(Ord. 2018-01, Passed May 22, 2018)

(Ord. 2019-05, Passed June 25, 2019)

(Ord. 2019-07, Passed September 24, 2019)

(Ord. 2020-03, Passed August 11, 2020)

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

6-6-1 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk-Treasurer for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk-Treasurer waives this requirement.

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

6-6-2 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation.

6-6-3 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the City Council-Treasurer 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.

6-6-4 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly

within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the City Council is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-6-5 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

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 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
- 6-7-29 Extraterritorial Review Agreement

GENERAL PROVISIONS

6-7-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Peosta, 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 Peosta, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-7-3 **APPLICATION.** Every owner of 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 (April 2, 1985) into three or more lots, parcels, or

tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City and:

- within two (2) miles of the corporate limits of the City;

shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-7-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Peosta, Iowa, and:

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

as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon the approval of the final plat by the governing body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revokable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk-Treasurer 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. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

14. "Governing Body" means the City Council of the City of Peosta, Iowa.

(Code of Iowa, Sec. 354.2(8))

15. "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))

16. "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.

17. "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))

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

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

20. "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))

21. "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))

22. "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 April 2, 1985.

23. "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.

24. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

25. "Performance Bond" means a surety bond or cash deposit made out to the City of Peosta, 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.

26. "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))

27. "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.

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

29. "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))

30. "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))

31. "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.

32. "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.

33. "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.

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

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

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

37. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of April 2, 1985 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 (April 2, 1985), 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))

38. "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))

39. "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))

40. "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))

41. "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. The construction of all improvements which at any time shall be deeded to the City, including all streets, alleys, sanitary or storm sewers or water works, shall be subject to inspection. The person responsible for installation of the improvement shall employ the design engineer or engineering firm (or other qualified licensed engineer or firm) to provide a resident project representative during construction. The City Engineer will provide periodic observations of the construction as directed by the City. The engineer employed by the entity installing the improvement shall certify to the City that the improvement was constructed in accordance with the plans as approved by the City and shall furnish construction record drawings for the improvements to the City and City Engineer.

(Ord. 2008-03, Passed August 26, 2008)

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. 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.

5. 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 subdivider and the City.

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

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

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

1. Relation to existing streets.

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

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

2. Acreage subdivisions.

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

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

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

3. Local streets.

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

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

4. Frontage streets.

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

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

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

6. Street Geometrics.

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

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

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

7. Intersections.

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

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

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

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

9. Street grades.

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

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

10. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made

for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

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

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

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

11. Blocks.

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

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

12. Lots.

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

b. Minimum lot dimensions and sizes.

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

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

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

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

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet

and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

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

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

14. Easements.

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

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

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

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 354.6)

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

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 354.8)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.

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

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

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

1. A correct description of the subdivision land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 354.8)

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

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

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

OTHER PROVISIONS

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

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

6-7-29 EXTRATERRITORIAL REVIEW AGREEMENT.

The City shall apply the same standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 6-7-4.

The City Council may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of the subdivision in the extraterritorial area. Such resolution shall be certified and recorded with the plat.

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

(Code of Iowa, Sec. 354.8 and 354.9)

(Ord. 03-04, Passed September 9, 2003)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 8 SIDEWALK REGULATIONS

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

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

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

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

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

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

8. All sidewalks shall slope at least one-quarter ($1/4$) inch per foot toward the curb, but in no event more than one-half ($1/2$) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

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

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

(Ord. 03-04, Passed September 9, 2003)

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 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk-Treasurer. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk-Treasurer. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The

City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

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

6-8-12 INSPECTION AND APPROVAL. Upon final completion, the 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-Treasurer shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that

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

(Code of Iowa, Sec. 384.50)

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

(Code of Iowa, Sec. 384.51)

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

(Code of Iowa, Sec. 384.60)

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

(ECIA Model Code Amended in 2011)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 9 INDUSTRIAL PROPERTY TAX EXEMPTION

6-9-1	Partial Exemption	6-9-6	Amount of Exemption
6-9-2	New Construction	6-9-7	Application
6-9-3	Reconstruction	6-9-8	Repeal
6-9-4	New Machinery and Equipment	6-9-9	Limitation on Tax Exemptions
6-9-5	Duration		

6-9-1 **PARTIAL EXEMPTION.** This section does hereby provide for a partial exemption from property taxation of the actual value added to the industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph e of the 1983 Code of Iowa.

6-9-2 **NEW CONSTRUCTION.** New construction as referred to herein means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures.

6-9-3 **RECONSTRUCTION.** New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Development Commission.

6-9-4 **NEW MACHINERY AND EQUIPMENT.** The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph e of the 1983 Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

6-9-5 **DURATION.** The partial exemption shall be available until such time as this ordinance is repealed by the City Council of the City of Peosta, Iowa.

6-9-6 **AMOUNT OF EXEMPTION.** The actual value added to industrial real estate for the reasons specified in the Section is eligible to receive a partial exemption from taxation for a period of five (5) years. "Actual value added" as used in this section means the actual value added as of the first of the year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January first of each year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, seventy-five percent;
2. For the second year, sixty percent;
3. For the third year, forty-five percent;
4. For the fourth year, thirty percent;
5. For the fifth year, fifteen percent.

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

6-9-7 APPLICATION. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property which the County Assessor by February first of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost and other information deemed necessary by the Director of Revenue.

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

6-9-8 REPEAL. When in the opinion of the City Council continuation of the exemption granted in this section ceases to be of benefit to the City, the City Council may repeal this ordinance, but all existing exemptions shall continue until their expiration.

6-9-9 LIMITATION ON TAX EXEMPTIONS. A property tax exemption under this section shall not be granted if the property, for which the exemption is claimed, has received any other property tax exemption authorized by law.

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 10 RESTRICTED RESIDENCE DISTRICT - REPEALED

(Ordinance 2017-04, Passed May 23, 2017)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 11 TAX INCREMENT FINANCING

- 6-11-1 Purpose
- 6-11-2 Provision for Division of Taxes
- 6-11-3 Tax Increment Fund
- 6-11-4 Funds Paid to Taxing Districts
- 6-11-5 Action at Time Debt is Repaid
- 6-11-6 Conflict, Severability
- 6-11-7 Purpose
- 6-11-8 Definitions

PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE 2001 AMENDMENT

- 6-11-9 Purpose

AN ORDINANCE PROVIDING FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE PEOSTA URBAN RENEWAL AREA OF THE CITY OF PEOSTA

- 6-11-10 Purpose
- 6-11-11 Definitions
- 6-11-12 Provisions for Division of Taxes
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PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON CERTAIN TAXABLE PROPERTY IN THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

- 6-11-13 Purpose
- 6-11-14 Definitions
- 6-11-15 Provisions for Division of Taxes
Levied on Certain Taxable
Property in the Urban Renewal
Area.

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE MARCH, 2016 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

- 6-11-16 Purpose
- 6-11-17 Definitions
- 6-11-18 Provisions for Division of Taxes Levied
on Taxable Property in the Tax Increment District

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE MAY, 2019 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

- 6-11-19 Purpose
- 6-11-20 Definitions
- 6-11-21 Provisions for Division of Taxes Levied
on Taxable Property in the 2019 Urban Renewal
Area Addition

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE OCTOBER, 2020 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

- 6-11-20 Purpose
- 6-11-21 Definitions
- 6-11-22 Provisions for Division of Taxes Levied
on Taxable Property in the 2019 Urban
Renewal Area Addition

PROVISION FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE APRIL, 2021 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

- 6-11-23 Purpose

6-11-24 Definitions

6-11-25 Provisions for Division of Taxes
Levied on Taxable Property in the
2021 Urban Renewal Area
Addition

It is hereby ordained by the City council of the City of Peosta, Iowa, that Title II, Policy and Administration, of the Code of Ordinances of the City of Peosta, Iowa, be and hereby is, amended by adding an ordinance entitled:

An ordinance providing that general property taxes levied and collected each year on all property located within the West Dubuque Industrial Park Economic Development District, an urban renewal project area, in and adjacent to the City of Peosta, County of Dubuque, State of Iowa, by and for the benefit of the State of Iowa, City of Peosta, County of Dubuque, Western Dubuque Community School District and other taxing districts, be paid to a special fund for payment of principal and interest on loans, monies advanced to and indebtedness, including bonds issued or to be issued, incurred by said city in connection with said urban renewal redevelopment project.

WHEREAS, the City Council of the City of Peosta, Iowa, after public notice and hearing as prescribed by law and pursuant to Resolution No. 89-09 passed and approved on the 11th day of April, 1989, adopted an Urban Renewal Plan for an urban renewal area known as the West Dubuque Industrial Park Economic Development District, which project area includes the lots and parcels within the boundaries described as follows:

SECTION 9 TOWNSHIP 88 NORTH, RANGE 1 EAST, OF THE 5TH PM, DUBUQUE COUNTY, IOWA:

Lot 1-2, Lot 2-2, in the West Dubuque Industrial Park No. 1.

Also,

Lot 2 of the Northeast 1/4 of the Southwest 1/4, and Lot 2 of 1 of the South 1/2 of the Southwest 1/4.

Also,

Lot 1-2-B, Lot 2-2-B, Lot 2-3-2-B, Lot 1-3-2-B of Block 1 of the West Dubuque Industrial Park No. 2.

Also,

Lot 1-1-1-4-2-B of Block 1 of the West Dubuque Industrial Park No. 2, and Lot 2-1-4-2-B of Block 1 of the West Dubuque Industrial Park, and Lot 2-4-2-B of Block 2 of the West Dubuque Industrial Park.

Also,

Lot 1-3-4-2-B and Lot 2-3-4-2-B of Block 1 of the West Dubuque Industrial Park No. 2.

Also,

Lot A of the West Dubuque Industrial Park No. 2.

Also,

Lot 2-1-1-4-2-B Block 1 of the West Dubuque Industrial Park No. 2.

Also,

Lot 3-3-1-4-2-B Block 1 of the West Dubuque Industrial Park No. 2.

Also,

Lots 1, 2, and 3 of the West Dubuque Industrial Park No. 4.

Also,

Lot 1-B of Block 2 of the West Dubuque Industrial Park No. 2.

Also,

Lot 1 of Block 1 of the West Dubuque Industrial Park No. 2.

Also,

Lot B, Lot 1-4, Lot 3, and Lot 2-4 of the West Dubuque Industrial Park No. 3.

SECTION 8, TOWNSHIP 88 NORTH, RANGE 1 EAST OF THE 5TH PM, DUBUQUE COUNTY, IOWA.

Lot 1, Lot 2, Lot 1-4, Lot A, of the West Dubuque Industrial Park No. 3.

Also,

Lot 1-A of Block 2, and Lot 1-1-2-B of Block 2, of the West Dubuque Industrial Park No. 2.

WHEREAS, expenditures and indebtedness are anticipated to be incurred by the City of Peosta, Iowa in the future to finance said Urban Renewal Projects and activities; and

WHEREAS, the City Council of the City of Peosta, Iowa desires to provide for the Division of Revenue from taxation in the Urban Renewal Project Area, as above described, in accordance with the provisions of Section 403.19 of the 1987 Code of Iowa, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEOSTA, IOWA:

6-11-1 PURPOSE. That the taxes levied on the taxable property in the Urban Renewal Project Area known as the West Dubuque Industrial Park Economic Development District, as legally described in the preamble hereof, by and for the benefit of the State of Iowa, City of Peosta, County of Dubuque, Western Dubuque Community School District, and all other taxing districts from and after the effective date of this ordinance shall be divided as hereinafter in this ordinance provided.

6-11-2 PROVISION FOR DIVISION OF TAXES. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in said Urban Renewal Area upon the total sum of the assessed value on the assessment roll of January 1, 1988, being the first day of the calendar year preceding the effective date of this ordinance, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid.

6-11-3 TAX INCREMENT FUND. That portion of the taxes each year in excess of the base period taxes determined as provided in Section 2 of this ordinance shall be allocated to and when collected be paid into a special tax increment fund of the City of Peosta, Iowa hereby established, to pay the principal of and the interest on loans, monies advanced to, indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9 and 403.12 of the 1987 Code of Iowa, as amended, incurred by the City of Peosta, Iowa, to finance or refinance in whole or in part projects undertaken pursuant to a Peosta Urban Renewal Project, except that taxes for payment of bonds and interest of each taxing district levying taxes on said project area shall be collected against all taxable property within the project area without any limitation as hereinabove provided.

6-11-4 FUNDS PAID TO TAXING DISTRICTS. All taxes levied and collected upon the taxable property in said Peosta Urban Renewal Project Area shall be paid into the funds of the taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes unless or until the total assessed valuation of the taxable property in said Urban Renewal Area shall exceed the total assessed value of the taxable property in said Urban Renewal Area on the date of adoption of this ordinance.

6-11-5 ACTION AT TIME DEBT IS REPAYED. At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Peosta hereinabove in Section 3 referred to have been paid, all monies thereafter received from taxes upon the taxable property in the Peosta Urban Renewal Project Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

6-11-6 CONFLICT, SEVERABILITY. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. The provisions of this ordinance are intended and shall be construed so as to fully implement the provisions of Section 403.19 of the 1987 Code of Iowa, as amended, with respect to the division of taxes from property within the Urban Renewal Project Area as described above. In the event that any provision of this

ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to said Urban Renewal Project and the territory therein.

(Ord. 89-01, Passed August 14, 1989)

6-11-7 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the area described as the 2001 Amendment to the West Dubuque Industrial Park Economic Development District Urban Renewal Area of the City of Peosta, Iowa each year by and for the benefit of the state, city, county, school districts, or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Peosta to finance projects in such area.

6-11-8 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Peosta, Iowa.
2. "County" shall mean the County of Dubuque, Iowa.
3. "2001 Amendment to the West Dubuque Industrial Park Economic Development District Urban Renewal Area" shall mean the "2001 Amendment", the boundary of which is set out below, such area having been identified in the amended Urban Renewal Plan approved by the City Council by resolution adopted on October 10, 2001:

2001 Amendment

Lot 2 of Lot 1 of the Southwest Quarter of the Southeast Quarter of Section 8, Township 88 North, Range 1 East in Dubuque County, Iowa.

PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE 2001 AMENDMENT.

After the effective date of this ordinance, the taxes levied on the taxable property in the 2001 Amendment each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which this 2001 Amendment is located, shall be divided as follows:

6-11-9 PURPOSE

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2001 Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the municipality certifies to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue, referred to in paragraph 2 below, shall be allocated to and when collected

be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for a taxing district which did not include the territory in the 2001 Amendment on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1 of the calendar year preceding the effective date of this ordinance shall be used in determining the assessed valuation of the taxable property in the 1999 Amendment on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 2001 Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the 2001 Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the 2001 Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2001 Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.91(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 2001 Amendment.

4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

5. The city clerk shall certify to the county auditor on or before December 1 of each year the amount of loans, advances, indebtedness, or bonds which qualify for payment from the special fund referred to in subsection (2) of this section.

6. This ordinance shall expire twenty years from the calendar year following the calendar year in which city clerk first certifies to the county auditor as described in subsection (5) of this section.

(Ord. 01-04, Passed October 10, 2001)

AN ORDINANCE PROVIDING FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE PEOSTA URBAN RENEWAL AREA OF THE CITY OF PEOSTA

6-11-10 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on a portion of the taxable property in the 2006 Addition to the Peosta Urban Renewal Area of

the City of Peosta, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Peosta to finance projects in the Peosta Urban Renewal Area.

6-11-11 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Peosta, Iowa.
2. "County" shall mean Dubuque County, Iowa.
3. "Urban Renewal Area" shall mean the entirety of the Peosta Urban Renewal Area as amended on February 13, 2007.
4. "Urban Renewal Area Amendment" shall mean the 2006 Addition to the Peosta Urban Renewal Area of the City of Peosta, Iowa, established by resolution of the City Council adopted on the 13th day of February, 2007.
5. "Tax Increment Financing District" shall mean that portion of the taxable real property in the Urban Renewal Area Amendment legally described as follows:

Certain real property situated in the City of Peosta, County of Dubuque, State of Iowa, bearing Dubuque County Tax Identification Numbers as follows:

NW Quarter of the NW Quarter, Section 15, T88N, R1E; and
NE Quarter of the NW Quarter, Section 15, T88N, R1E; and
SW Quarter of the NW Quarter, Section 15, T88N, R1E; and
SE Quarter of the NW Quarter, Section 15, T88N, R1E;

6-11-12 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA AMENDMENT. After the effective date of this ordinance, the taxes levied on the taxable property in the Tax Increment Financing District each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Tax Increment Financing District is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Tax Increment Financing District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph
2. below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the

territory in the Tax Increment Financing District on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Tax Increment Financing District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

3. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Tax Increment Financing District, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Tax Increment Financing District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Tax Increment Financing District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

4. the portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

5. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2007-02, February 13, 2007)

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON CERTAIN TAXABLE PROPERTY IN THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

6-11-13 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on a portion of the taxable property in the Peosta Urban Renewal Area of the City of Peosta, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds

proposed to be issued by the City of Peosta to finance projects in the Peosta Urban Renewal Area.

6-11-14 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Peosta, Iowa.
2. "County" shall mean Dubuque County, Iowa.
3. "Urban Renewal Area" shall mean the entirety of the Peosta Urban Renewal Area as amended from time to time.
4. "August, 2007 Tax Increment Financing District" shall mean that portion of the taxable real property in the Urban Renewal Area legally described as follows:

Certain real property situated in the City of Peosta, County of Dubuque, State of Iowa, more particularly described as follows:

Lot 1 of the North East Quarter of the South West Quarter, Section 15, Township 88 North, Range 1 East.

6-11-15 PROVISIONS FOR DIVISION OF TAXES LEVIED ON CERTAIN TAXABLE PROPERTY IN THE URBAN RENEWAL AREA. After the effective date of this ordinance, the taxes levied on the taxable property in the August, 2007 Tax Increment Financing District each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the August, 2007 Tax Increment Financing District is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the August, 2007 Tax Increment Financing District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the August, 2007 Tax Increment Financing District on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the August, 2007 Tax Increment Financing District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on

loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the August, 2007 Tax Increment Financing District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the August, 2007 Tax Increment Financing District shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the August, 2007 Tax Increment Financing District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2007-05, Passed August 28th, 2007)

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE MARCH, 2016 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

6-11-16 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on certain taxable property in the March, 2016 Addition to the Peosta Urban Renewal Area of the City, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City to finance projects in such area.

6-11-17 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. “City” shall mean the City of Peosta, Iowa.
2. “County” shall mean Dubuque County, Iowa.

3. "Tax Increment District" shall mean the March, 2016 Addition to the Peosta Urban Renewal Area of the City, the legal description of which is set out below, approved by resolution of the City Council on March 8, 2016:

The portion of the real property in the City of Peosta, Dubuque County, Iowa, described as Lot 1 Hoefer Subdivision No. 2 including the public right-of-way half width for Peosta Street and the public right-of-way for Burds Road adjacent to said lot;

AND

Lots 1 and 2 of Fareway Place

4. "Urban Renewal Area" shall mean the entirety of the Peosta Urban Renewal Area, as amended from time-to-time.

6-11-18 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE TAX INCREMENT DISTRICT. After the effective date of this ordinance, the taxes levied on the taxable property in the Tax Increment District each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Tax Increment District is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Tax Increment District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (2) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Tax Increment District on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Tax Increment District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this

ordinance. Unless and until the total assessed valuation of the taxable property in the Tax Increment District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the Tax Increment District shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Tax Increment District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2016-01, Passed March 8, 2016)

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE MAY, 2019 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

6-11-19 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the May, 2019 Addition to the Peosta Urban Renewal Area of the City of Peosta, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Peosta to finance projects in such area.

6-11-20 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. “City” shall mean the City of Peosta, Iowa.
2. “County” shall mean Dubuque County, Iowa.

3. “2019 Urban Renewal Area Addition” shall mean the May, 2019 Addition to the Peosta Urban Renewal Area of the City, the legal description of which is set out below, approved by the City Council by resolution adopted on May 14, 2019:

Certain real property situated in the City of Peosta, Dubuque County, State of Iowa bearing Dubuque County Property Tax Parcel Identification Number 1409401022 and more particularly described as follows:

Lot B in the Peosta Commercial Park.

4. "Urban Renewal Area" shall mean the entirety of the Peosta Urban Renewal Area as amended from time to time.

6-11-21 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE 2019 URBAN RENEWAL AREA ADDITION. After the effective date of this ordinance, the taxes levied on the taxable property in the 2019 Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the 2019 Urban Renewal Area Addition is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2019 Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2019 Urban Renewal Area Addition on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 2019 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the Code of Iowa and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the 2019 Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the 2019 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2019 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2019-03, Passed May 14, 2019)

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN
THE OCTOBER, 2020 ADDITION TO THE PEOSTA URBAN RENEWAL AREA,
PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

6-11-20 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the October, 2020 Addition to the Peosta Urban Renewal Area of the City of Peosta, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Peosta to finance projects in such area.

6-11-21 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. “City” shall mean the City of Peosta, Iowa.

2. “County” shall mean Dubuque County, Iowa.

3. “2020 Urban Renewal Area Addition” shall mean the October, 2020 Addition to the Peosta Urban Renewal Area of the City, the legal description of which is set out below, approved by the City Council by resolution adopted on October 13, 2020:

Certain real property situated in the City of Peosta, Dubuque County, State of Iowa more particularly described as follows:

Parcel #1409401025

Lot 1 of Peosta Commercial Park No. 2 in the City of Peosta, Dubuque County, Iowa

Parcel #1409401026

Lot 2 of Peosta Commercial Park No. 2 in the City of Peosta, Dubuque County, Iowa

“Urban Renewal Area” shall mean the entirety of the Peosta Urban Renewal Area as amended from time to time.

6-11-22 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN
THE 2019 URBAN RENEWAL AREA ADDITION. After the effective date of this ordinance,
the taxes levied on the taxable property in the 2020 Urban Renewal Area Addition each year by

and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the 2020 Urban Renewal Area Addition is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2020 Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2020 Urban Renewal Area Addition on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 2020 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the Code of Iowa and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the 2020 Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the 2020 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2020 Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2020-05, Passed October 13, 2020)

PROVISIONS FOR THE DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE APRIL, 2021 ADDITION TO THE PEOSTA URBAN RENEWAL AREA, PURSUANT TO SECTION 403.19 OF THE CODE OF IOWA

6-11-23 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the April, 2021 Addition to the Peosta Urban Renewal Area of the City of Peosta, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Peosta to finance projects in such area.

6-11-24 DEFINITIONS. For use within the remainder of this ordinance the following terms shall have the following meanings:

1. “City” shall mean the City of Peosta, Iowa.
2. “County” shall mean Dubuque County, Iowa.
3. “Urban Renewal Area Addition” shall mean the April, 2021 Addition to the Peosta Urban Renewal Area of the City of Peosta, Iowa, the legal description of which is set out below, approved by the City Council by resolution adopted on April 27, 2021:

Certain real property situated in the City of Peosta, Dubuque County, State of Iowa bearing Dubuque County Property Tax Parcel Identification Number 1409401026, and more particularly described as follows:

Lot 2 of PEOSTA COMMERCIAL PARK NO. 2 in the City of Peosta, Iowa, according to Plat recorded as Instruments #2020-882, records of Dubuque County, Iowa;

AND

Certain real property situated in the City of Peosta, Dubuque County, State of Iowa bearing Dubuque County Property Tax Parcel Identification Number 1409451013, and more particularly described as follows:

Lot 2 of NICC SECOND SUBDIVISION in the City of Peosta, Iowa, according to Plat recorded as Instruments #2020-5210, records of Dubuque County, Iowa;

AND

Certain real property situated in the City of Peosta, Dubuque County, State of Iowa more particularly described as follows:

THUNDER VALLEY ESTATES #3

“Urban Renewal Area” shall mean the entirety of the Peosta Urban Renewal Area as amended from time to time.

6-11-25 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA ADDITION. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area Addition is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Addition on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the Code of Iowa and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Addition exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Addition shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 2021-02, Passed April 27, 2021)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 12 URBAN REVITALIZATION AREA CODE TAX ABATEMENT SCHEDULE

6-12-1	Purpose	6-12-4	Adoption of Tax Abatement Schedule According to the Plan
6-12-2	Definitions		
6-12-3	Adoption of Urban Revitalization Plan and Designation of Area		

6-12-1 PURPOSE. The purpose of this ordinance is to provide for the designation of Lot 3 of the West Dubuque Industrial Park No. 5 in the city of Peosta, Iowa as an Urban Revitalization Area under Chapter 404 of the Code of Iowa, 1995.

6-12-2 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Peosta, Iowa
2. "County" shall mean the County of Dubuque, Iowa.
3. "Urban Revitalization Area" shall mean;

a. the "Lot 3 of the West Dubuque Industrial Park No. 5 REVITALIZATION AREA", the boundary of which is set out below, such area having been identified in a Resolution of Finding adopted by the City Council on 11/13/96.

b. the Lot 2 of Deerwood Addition, Lots 1 & 2 of Kalb Addition, the north 25 feet of Lots 173 & 174, the north 25 feet of the west 19.5 feet of Lot 175, the north 62 feet of the east 30.5 feet of Lot 175, the north 62 feet of Lots 176-178, the north 62 feet of the west 12 feet of Lot 179, the north balance of Lots 179-185, Lots 186-198, 202 & 203, Quade Place, and Lot 2 of Kalb Second Addition, Section 9, Township 88 North, Range 1 East of the 5th PM in Peosta, Dubuque County Iowa, such area having been identified in a Resolution of Finding adopted by the City Council on October 26, 2004.

(Ord. 05-01, Passed January 11, 2005)

6-12-3 ADOPTION OF URBAN REVITALIZATION PLAN AND DESIGNATION OF AREA. After the effective date of this ordinance, the above described property is hereby designated as an Urban Revitalization Area as defined in Chapter 404, Code of Iowa, 1995, and the urban revitalization plan prepared by the city council, and public hearing held thereon, is hereby adopted in its entirety by reference. A copy of said plan is available at the office of the city clerk, City Hall, Peosta, Iowa.

6-12-4 ADOPTION OF TAX ABATEMENT SCHEDULE ACCORDING TO THE PLAN. All qualified real estate in the Urban Revitalization Area is eligible to receive an exemption from taxation on the actual value added by the improvements. The exemption is for a period of three

years. The amount of the exemption is equal to 100% (One Hundred Percent) of the actual value added by the improvements.

(Ord. 96-03, Passed December 11, 1996)

(Ord. 03-04, Passed September 9, 2003)

TITLE VI PHYSICAL ENVIRONMENT

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General Provisions

6-13-1 BUILDING OFFICIAL AND BUILDING CODE COMMITTEE.

1. Creation. There is hereby established a Building Code Committee under the supervision and control of the Building Official who is appointed by and serves at the discretion of the City Council.

2. General authority. In addition to any other authority expressly granted in this chapter, the Building Official shall have authority to do or delegate all things necessary or proper, consistent with this chapter and all inspectors, administrative, personnel, accounting, budgetary, and procedural policies of the City, to carry out and to enforce the codes adopted pursuant to this chapter and the acts and decisions of the Building Code Committee. In accordance with any prescribed procedures and with the approval of the City Council, the Building Official may appoint technical officers and inspectors and other employees as authorized representatives of the Building Official to assist in the enforcement of the provisions of this chapter.

3 Entry. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Building Official or its authorized representative have reasonable cause to believe that there exists in any building or upon any premises any condition or Building Code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official or the Building Official or its authorized representatives shall have the rights of entry set forth in Title I, Chapter 2 of the Code of Ordinances.

4. Interpretations. The Building Official shall have the power to render interpretations of the codes adopted by this chapter and to adopt and enforce rules and regulations supplemental thereto as deemed necessary in order to clarify the application of the provisions, provided that such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code. Code interpretations will be rendered through consultation with appointed inspectors, ICC code interpretation consultants, or as outlined in ICC code commentaries.

5. Stop orders. Whenever any work is being done contrary to the provisions of this chapter, the Building Official or its authorized representatives may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

6. Cooperation of other officials and officers. The Building Official may request, and shall receive so far as is required in the discharge of duties, the assistance and cooperation of other officials of this City and or contracted inspection personnel.

7. Written orders. The decisions, orders and notices of the Building Official or its authorized representative shall be in writing and a duplicate or copy thereof filed in the City Hall for public inspection. Where immediate action and response is proper, orders may be made orally and later reduced to writing.

8. Maintenance of records. The Building Services Department shall maintain adequate records of its acts, investigations, decisions, orders and notices.

6-13-2 BUILDING CODE COMMITTEE.

1. Creation. A Building Code Committee is hereby created, consisting of three (3) members qualified by experience and training to pass on matters pertaining to this ordinance. Members shall be appointed by the City Council and shall serve for three year terms; provided that upon completion of the term of office, members of the Building Code Committee shall continue to serve in their full capacity until their successors have been duly appointed.

2. General authority. In addition to specific authority granted in this chapter, the Building Code Committee shall have authority to:

a. Elect officers and establish rules and regulations for conducting its business and for conducting hearings consistent with this chapter, and maintain records of its meetings, acts, investigations, hearings and decisions;

b. Hear and decide appeals from the acts, decisions or orders of the Building Official, as provided herein; and

c. Conduct studies and investigations for which necessary funds have been approved by the City Council, and advise the City Council on all building construction regulations and procedures.

All inspection, administrative, personnel, accounting, budgetary, and procedural policies of the City shall govern in all of its operations.

3. Meetings. Two (2) members shall constitute a quorum. The concurring vote of two (2) members of the board shall be necessary to pass any motion or render any decision. The attendance of all members shall be entered on the minutes by the secretary. All meetings shall be held in conformance with provisions of the Iowa Open Meetings Law. A copy of the minutes of each meeting shall be filed with the City Clerk within ten (10) working days after such meeting.

4. Appeals. Except where a different procedure is expressly provided in this ordinance, any person who is aggrieved by any act, decision or order of the Building Official or its authorized representatives may appeal to the Building Code Committee by giving written notice of such appeal to the Building Official within five (5) working days of receipt of decision from which the appeal is taken. The notice of appeal shall contain:

a. A copy of any written notice, order or decision.

b. A brief statement setting forth the legal interest of the appellant in the building or the land involved or the rights of the appellant affected by the notice, order or decision.

c. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

d. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

e. The signature of all parties named as appellants and their official mailing addresses.

f. The verification of the appellant as to the truth of the matters stated in the appeal.

5. Hearing. Except when the interests of justice require otherwise, the Building Code Committee shall hold a hearing within ten (10) working days after receiving such notice of appeal and render a decision within five (5) working days thereafter. Any interested party, including the Building Official, shall have the right to present evidence and argument. The decision of the Building Code Committee shall be final.

Failure of any person to file an appeal in accordance with this section shall constitute a waiver of such person's right to an administrative hearing and adjudication of the notice, order or decision, or any portion thereof. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

The decisions of the Building Code Committee shall be made in writing and supported by substantial evidence in the record presented at the hearing. It may reverse or modify a decision of the Building Official or its appointed representatives only on finding that:

a. The Building Official or its appointed representatives incorrectly interpreted or applied a provision of, or acted beyond the Building Official's authority under this ordinance; or

b. The decision of the Building Official creates undue hardship upon the appellant. If the decision concerns alternate materials or methods of construction, such materials or methods must be satisfactory for the use intended and at least equivalent to that prescribed by this chapter in suitability, strength, effectiveness, durability, fire protection and safety.

6-13-3 LIMITATIONS ON ADMINISTRATIVE AUTHORITY. Neither the Building Official nor the Building Code Committee, or its authorized representatives may waive requirements of this chapter except as expressly authorized herein.

6-13-4 VIOLATIONS.

1. Unless there is in effect a stay or injunction to the contrary, it is unlawful for any person to:

a. Commit any act prohibited by or omit any act required by any code adopted by this chapter.

b. Commit any act prohibited by or omit any act required by the Building Official or the Building Code Committee in the exercise of their respective discretions granted under this chapter; or

c. Interfere with, obstruct, refuse, disregard or frustrate any act, notice, order or decision of the Building Official, or its authorized representatives, or the Building Code Committee, engaged in the enforcement of this chapter.

2. Unlawful acts or omissions shall be deemed a separate offense for each and every day or portion thereof during which they are continued or permitted and shall be punishable as provided in Title I, Chapter 3 of the Code of Ordinances in addition to any revocation, cancellation or forfeiture of any license or permit and in addition to any other remedies authorized in this chapter.

6-13-5 DUTIES OWED TO THE PUBLIC ONLY. The duties of the Building Official, the Building Services Department, and the Building Code Committee are owed to the City. Nothing herein shall be construed to create any legal or contractual duty owed to any special class of citizen or to authorize them to assume any such duty in the performance of any function under this chapter.

6-13-6 EXPENSES TO ENABLE INVESTIGATIONS. All expenses incurred by any person to enable inspections in relation to new construction, repairs, remodeling or reconstruction, or in relation to buildings or structures moved into or within the City, are not the responsibility of the City or its contracted inspection firm.

Building Code Adopted

General Provisions

6-13-7 PEOSTA BUILDING CODE ADOPTED.

There is hereby adopted by reference as the “Peosta Building Code,” that certain building code known as the 2012 International Residential Code, as published by the International Code Council, Inc., exclusive of any appendix not specifically adopted by the City, notwithstanding any reference thereto in the provisions of said International Residential Code, and subject to the amendments and other provisions of this section. The provisions of the Peosta Building Code as adopted shall be controlling in the construction of buildings and other structures and in all matters covered by such building code within the corporate limits of the City. A copy of said International Residential Code shall be on file in the office of the City Clerk for public inspection. Said International Residential Code is hereby amended as follows:

1. Historic buildings. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, continued use or change of use of a historic building may be made in compliance with the State Historic Preservation Office requirements. Where, in any specific case, different sections of this Building Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

2. Fees, hereby is amended by repealing subsections Permit Fees, and replacing such subsection with new subsections in lieu thereof, as follows:

a. Permit Fees. The fee for each permit shall be as set forth by Resolution of the City Council.

The payment of fees under this section of the Building Code shall not relieve the applicant, permit holder or other persons from the payment of any other fee or fees that may be prescribed by this Building Code, by law or by ordinance. No fee shall be required for buildings owned and used exclusively by the City.

(Ord. 2016-05, Passed June 15, 2016)

b. Plan Review Fees. When a plan or other data is required to be submitted, a plan review fee shall be due and payable prior to the issuance of a permit. Such plan review fee shall be as set forth by Resolution of the City Council.

The plan review fees specified in this subsection are separate fees from the permit fees specified in Section 2(a) and are in addition to the permit fees.

When plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged as set forth by Resolution of the City Council.

3. Section R302.5.1 "Opening Protection" is hereby repealed by deleting such section.

4. Section R303.4 "Mechanical ventilation" is hereby repealed by deleting such section.

5. Section R309.5 "Fire sprinklers" is hereby repealed by deleting such section.

6. Section R310 "Emergency Escape and Rescue Openings" is hereby amended by adding section:

R310.6 A platform capable of supporting a live load of 300 pounds shall be permanently affixed at the interior of the window. This platform shall be no higher than 20 inches and constructed so that the distance from the platform to the finished sill height shall not exceed 44 inches. The platform shall extend outward from the wall a minimum of 20 inches and shall be at least as wide as the clear openable width of the window.

7. Section R314.1 "Smoke detection and notification" is hereby amended by adding sections:

a. R314.1.1 All new construction home alarm systems must be hard wired, interconnected with battery backup.

b. R314.1.2 Approved wireless alarm systems may be used for alterations, repairs and additions.

8. Section R403 "Footings" is hereby amended by adding a new section to read as follows:

R403.5 Bearing Walls. Bearing walls shall be supported on masonry or concrete foundations or piles or other approved foundation system that shall be of sufficient size to support all loads. Where a design is not provided, the minimum foundation requirements for stud bearing walls shall be as set forth in Table 18-I-C, unless expansive soils of a severity to cause differential movement are known to exist. EXCEPTIONS:

a. A one-story wood- or metal-frame building not used for human occupancy and not over 4200 square feet in floor area may be constructed with walls supported on a treated wood foundation plate when approved by the Building Inspector.

b. The support of buildings or decks by posts embedded in earth shall be designed for the purpose intended. Wood posts or poles embedded in earth shall be pressure treated with an approved preservative. Steel posts or poles shall be protected as required.

c. In homes constructed with this code the following reinforcement requirements for 8" minimum thick concrete foundation walls between 96 and 120 inches in height: footing imbedded #4 bars 20 inches on center vertically and #4 bars 24 inches on center horizontally. Walls less than 96 inches in height required no less than 4 #4 bars installed horizontally spaced equally. Subwalls required 2 #4 bars. All footings require 2 #4 bars. Anything outside of the scope of these wall heights require a stamped engineered reinforcement schedule.”

9. Section R405.1 “Concrete or masonry foundations” is hereby replaced with the following:

Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. Drainage tiles, gravel or crushed stone drains, perforated pipe or other approved systems or materials shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Gravel or crushed stone drains shall extend at least 1 foot (305mm) beyond the outside edge of the footing and 6 inches (152 mm) above the top of the footing and be covered with an approved filter membrane material. The top of open joints of drain tiles shall be protected with strips of building paper. Drainage tiles or perforated pipe shall be placed on a minimum of 2 inches (51 mm) of washed gravel or crushed rock at least one sieve size larger than the tile joint opening or perforation and covered with not less than 6 inches (152 mm) of the same material.

10. Section R501.3 “Fire protection of floors” is hereby repealed by deleting such section.

11. Section R507.2 “Deck ledger connection to band joist” is hereby amended by adding a new section to read as follows:

a. R507.2.3 “Deck lateral load connection” is hereby repealed by deleting such section.

b. R507.2.4 Any changes or alterations to Section R507 “Decks” will require stamped engineered documents.

12. Section R602.3 “Design and construction” is hereby replaced with the following:

All roof trusses and rafters, at all bearing locations, shall be secured to top plates with labeled and listed approved screws, H-clips or other system tested and designed for such use.

13. Section R905.2.8.3 “Sidewall flashing” is hereby replaced with the following:

Base flashing against a vertical sidewall shall be step flashing and shall be a minimum of 4 inches (102 mm) in height and 4 inches (102mm) in width and shall direct water away from the vertical sidewall onto the roof and/or into the gutter. Where siding is provided on the vertical sidewall, the vertical leg of the flashing shall be step flashed under the siding. Where anchored masonry veneer is provided on the vertical sidewall, the base flashing shall be provided in accordance with this section and counterflashing shall be provided in accordance with Section R703.7.2.2. Where exterior plaster or adhered masonry veneer is provided on the vertical sidewall, the base flashing shall be provided in accordance with this section and Section R703.6.3.

14. Chapter 11 “Energy Efficiency” is hereby repealed by deleting section. It shall be the contractor’s responsibility to follow the state energy code.

15. Appendix G “Swimming Pools, Spas and Hot Tubs” is hereby repealed by deleting such section.

(Ord. 2013-04, Passed December 10, 2013)

6-13-8 PERMIT ISSUANCE DURING REZONING CONSIDERATION PROHIBITED.

The Building Official of the City is hereby prohibited from issuing a building permit to the owner or owners of real property for which action has been initiated for the purpose of securing a zoning reclassification. The period of such prohibition shall extend from the date of the official act of the Planning and Zoning Commission calling for a public hearing on such zoning reclassification up to and including the date of final action of the City Council upon such zoning reclassification.

6-13-9 WAITING PERIOD FOR DEMOLITION PERMITS.

1. Application Of Section: The provisions of this Section shall apply to all buildings located in whole or in part within the following described neighborhood areas: None designated.

2. Discretionary waiting period. Upon receiving an application for a demolition permit for any building located in whole or in part within the areas described in paragraph (1) of this section, the Building Official shall immediately notify the City Council of such application. At its next regular meeting the council must then take formal action to either approve or withhold the demolition permit for a specified period not to exceed ninety (90) days. If the council fails to take action to approve or withhold the demolition permit at its next regular meeting, the Building Official shall issue the permit forthwith. The council may in its discretion withhold the demolition permit whenever it determines that the building for which the permit is sought may

be of historical or architectural significance to the City. The purpose of this waiting period is to enable the council to have time to investigate the historical or architectural value of the building to the community and to take such action(s) as may be appropriate to ensure or encourage its preservation. However, nothing in this section shall authorize the withholding by the Building Official of a demolition permit for more than ninety (90) days following notification of council of application for such permit.

Dangerous buildings

6-13-10 PURPOSE AND SCOPE.

1. It is the purpose of this article to provide a just, equitable and practicable method to be cumulative with and in addition to any other remedy provided by the Building Code or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

2. The provisions of this article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in the City of Peosta.

3. All buildings or structures which are required to be repaired under the provisions of this article shall be subject to the provisions of the Building Code.

6-13-11 DEFINITION OF DANGEROUS BUILDING.

“Dangerous building” means any building or structure which endangers the life, health, property or safety of the public or its occupants by reason of any or all of the following conditions or defects:

1. Any door, aisle, passageway, stairway or other means of exit of insufficient width, size or arrangement to provide safe and adequate means of exit in case of fire or panic.

2. The walking surface of any aisle, passageway, stairway or other means of exit is warped, worn, loose, torn or otherwise unsafe and inadequate as means of exit in case of fire or panic.

3. The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 1/2) times the working stress or stresses allowed in the Building Code for new buildings or structures of similar structure, purpose or location.

4. Any portion has been damaged by any cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings or structures of similar structure, purpose or location.

5. Any portion or member or appurtenance is likely to fail, or to become detached or dislodged, or to collapse and potentially injure persons or damage property.

6. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings or structures.

7. Any portion has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. The building or structure, or any portion thereof, is likely to collapse partially or completely, 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.

9. For any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. The building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its nonsupporting members, enclosings or outside walls or coverings.

12. The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants or criminals, or as to (c) enable persons to resort thereto for the purpose of committing unlawful acts.

13. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition of the Building Code or any law or ordinance relating to the condition, location or structure of such building or structure.

14. Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent, of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Any building or structure, used or intended to be used for dwelling purposes, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease because of inadequate maintenance,

dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise.

16. Any building or structure is determined by the fire marshal to be a fire hazard because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause.

17. Any building or structure is in such condition as to constitute a public nuisance.

18. Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure.

19. Any building or structure is abandoned for a period in excess of six (6) months.

6-13-12 ENFORCEMENT.

1. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this article.

2. All buildings or structures within the scope of this article and all construction or work for which a permit is required shall be subject to inspection by the Building Official or its authorized representatives in accordance with and in the manner provided by this article and the Building Code.

3. All buildings or portions thereof which are determined after inspection by the Building Official or its authorized representatives to be dangerous as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this article.

6-13-13 NOTICES AND ORDERS OF BUILDING OFFICIAL.

1. Whenever the Building Official or its authorized representatives has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the Building Official may, at the recommendation of its building inspector(s) commence proceedings to cause the repair, vacation or demolition of the building.

2. The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

a. The street address, description sufficient for identification of the building or structure and a legal description of the premises.

b. A statement that the Building Official or its authorized representatives have found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of this article.

c. A statement of the action required to be taken as determined by the Building Official:

(1) If the Building Official or its authorized representatives has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the Building Official or its authorized representatives shall determine is reasonable under all of the circumstances.

(2) If the Building Official and its authorized representatives have determined that the building or structure must be vacated, the order shall require that the building or structures shall be vacated within a time certain from the date of the order as determined by the Building Official or its authorized representatives to be reasonable.

(3) If the Building Official or its authorized representatives has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official or its authorized representatives shall determine is reasonable (not to exceed sixty (60) days from the date of the order); that all required permits be secured therefor within sixty (60) days from the date of the order, and that the demolition be completed within such time as the Building Official or its authorized representatives shall determine is reasonable.

d. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official or its authorized representatives (a) will order the building vacated and posted to prevent further occupancy until the work is completed, and (b) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

e. Statements advising (a) that any person having any record title or legal interest in the building may appeal to the Building Code Committee as provided in this article, and (b) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

3. The notice and order, and any amended or supplemental notice and order, shall be posted on the property and a copy served upon the record owner. In addition, reasonable effort shall be made to serve a copy upon each of the following if known to the Building Official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

4. Service of the notice and order may be made by any method provided by law for service of original notices in civil lawsuits. The Building Official or its authorized representatives, including the Police Chief, may serve the notice personally. Service by certified mail shall be effective on the date of mailing. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section.

5. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons affecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, or affidavit of publication, shall be affixed to the copy of the notice and order retained by the Building Official or its authorized representatives.

6-13-14 REPAIR, VACATION AND DEMOLITION.

1. The following standards shall be followed by the Building Official or its authorized representatives (and by the Building Code Committee if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

a. Any building declared a dangerous building under this ordinance either shall be repaired in accordance with the current Building Code or shall be demolished at the option of the building owner.

b. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

2. Every order and notice to vacate shall recite the emergency and specify the conditions which necessitate vacating, and the notice shall contain the following:

“DO NOT ENTER
UNSAFE TO OCCUPY

It is unlawful to occupy this building or to remove or deface this notice.

Building Official”

No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. Upon receipt of, an application from the person required to conform to the order and an agreement by such person that said person will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said repair, rehabilitation or demolition, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the Building Official's notice and order.

4. Whenever the required repair or demolition is not commenced within thirty (30) days after any order issued under this article becomes effective, or if applicable any extension of time:

a. The Building Official shall cause the building or structure described in such order to be vacated by posting at each entrance thereto a notice reading:

“DANGEROUS BUILDING
DO NOT OCCUPY

It is unlawful to occupy this building, or to remove or deface this notice.

Building Official”

No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Building Official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

b. The Building Official may, in addition to any other remedy, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be demolished and the materials, rubble and debris therefrom, removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this article. Any surplus realized from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

When any work of repair or demolition is to be done pursuant to this provision, the work shall be accomplished by City personnel or by private contract under the direction of the Building Official or its authorized representatives. Plans and specifications therefor may be prepared by the Building Official or the Building Official may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

The cost of such work shall be made a special assessment against the property involved. The Building Official or its authorized representatives shall keep an itemized account of the expense incurred in the repair or demolition of any building done pursuant to the provisions of this article. Upon completion of the work of repair or demolition, the Building Official or its authorized representatives shall prepare and certify the actual cost to the City Clerk who, in turn, shall certify such cost to the county treasurer, and it shall then constitute a lien against said property and be collected with an in the same manner as general property taxes on said property.

6-13-15 APPEAL.

1. Any person entitled to service of a notice and order under this article may appeal from any action, decision or order of the Building Official under this article by filing at the office of the Building Official or its authorized representative a written appeal to the Building Code Committee containing:

a. A brief statement setting forth the legal interest of the appellant in the building or the land involved in the notice and order.

b. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

c. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

d. The signature of all parties named as appellants and their official mailing addresses.

e. The verification of the appellant as to the truth of the matters stated in the appeal.

2. The appeal shall be filed within ten (10) days from the date of service of such order or action of the Building Official.

3. Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it at the next regular or special meeting of the Building Code Committee.

4. As soon as practicable after receiving the written appeal, the Building Code Committee shall fix a date, time and place for the hearing of the appeal. Such date shall be not less than ten (10) days nor more than thirty (30) days from the date the appeal was filed with the Building Official or its authorized representatives. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the Building Code Committee either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, addressed to the appellant at the appellant's address shown on the appeal.

5. Failure of any person to file an appeal in accordance with this section shall constitute a waiver of such person's right to an administrative hearing and adjudication of the notice and order or any portion thereof.

6. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

7. Except for vacation orders, enforcement of any notice and order of the Building Official issued under this article shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

6-13-16 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL.

1. If any person to whom an order is directed shall fail, neglect or refuse to obey such order, the Building Official may (1) cause such person to be prosecuted or (2) institute any appropriate action to abate such building or structure as a public nuisance.

2. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this City or with any person who owns or holds any estate or interest in any building or structure which has been ordered repaired, vacated or demolished under the provisions of this article, whenever such officer, employee, contractor or authorized representative of this City, person having an interest or estate in such building or structure, acts pursuant to the provisions of this article, or performs any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.

Electrical Code

6-13-17 PEOSTA ELECTRICAL CODE ADOPTED.

There is hereby adopted by reference as the “Peosta Electrical Code” that certain electrical code known as the 2011 National Electrical Code subject to the amendments and other provisions of this subchapter. The provisions of the Peosta Electrical Code shall be controlling in the supply of electricity and in the installation, maintenance and use of all electrical conductors and equipment in one and two family detached units as described in the 2011 National Electrical Code.

(Ord. 2013-04, Passed December 10, 2013)

1. All electrical installation must comply with state adopted codes as amended.

2. Existing installations. Electrical systems and equipment lawfully in existence at the time of the adoption of this code may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property has been created by such electrical system and equipment.

3. Maintenance. All electrical systems and equipment, both existing and new, and all parts thereof shall be maintained in a proper operating condition in accordance with the original design and in a safe and hazard-free condition. The owner or designated agent shall be responsible for the maintenance of the electrical system. To determine compliance with this subsection, the Building Official or its authorized representatives may cause any electrical system to be reinspected.

4. Moved building. Electrical systems and equipment which are a part of buildings or structures moved into or within this City shall comply with the provisions of this code for new installations.

(Ord. 2010-06, Passed November 9, 2010)

6-13-18 DEFINITIONS.

1. “Approved”, as to materials, equipment and method of construction, refers to approval by the Building Official or its authorized representatives as the result of investigation and tests conducted, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

2. “Approved agency” or “approved testing agency” is an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the Building Official.

3. “Building Inspector” An authorized person who is responsible for checking buildings in the course of construction and completed buildings to ensure that they have been constructed in accordance with the adopted building code.

4. “Building Code” means the building code as adopted and amended by the City.

5. “Building Official” is the officer appointed pursuant to Section R104 of the 2006 IRC, or any duly authorized representatives.

6. “Chief electrical inspector” may be the Building Official, or any person designated by the Building Official to provide inspection services in the area of electrical regulations.

7. “Code enforcement agency” is the Building Code Committee which is under the administration and operational control of the Building Official.

8. “Listed” and “listing” are terms referring to equipment and materials which are shown in a list published by an approved testing agency, qualified and equipped for experimental testing and maintaining an adequate periodic inspection of current productions and whose listing states that the equipment complies with nationally recognized safety standards.

6-13-19 CONFLICTING PROVISIONS. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

6-13-20 ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION. The provisions of this code are not intended to prevent the use of any material or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the Building Official or its authorized representatives.

The Building Official or its authorized representatives may approve any alternate, provided it is found that the proposed design is satisfactory and complies with the provisions of this code and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability and safety.

The Building Official or its authorized representatives shall require that sufficient evidence or proof be submitted to substantiate any claims regarding the use of alternates. The details of any

action granting approval of an alternate shall be recorded and entered in the files of the Building Code Committee.

6-13-21 MODIFICATIONS. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Building Official or its authorized representatives may grant modifications for individual cases, provided it is found that a special individual reason makes the strict letter of this code impractical and the modification is in conformity with the intent and purpose of this code, and that such modification does not fail to meet minimum health, life and fire safety requirements. The details of actions granting modifications shall be recorded and entered in the files of the Building Code Committee.

6-13-22 TESTS. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that materials or construction do not conform to the requirements of this code, the Building Official or its authorized representatives may require tests as evidence of compliance to be made at no expense to the City.

Test methods shall be as specified by this code or by other recognized test standards. In the absence of recognized and accepted test methods for the proposed alternate, the Building Official or its authorized representatives shall determine test procedures.

All tests shall be made by an approved agency. Reports of such tests shall be retained by the Building Official or its authorized representatives for the period required for the retention of public records.

6-13-23 ENFORCEMENT, is hereby added as a new article to read as follows:

Powers and duties of building official.

1. Authority to disconnect utilities in emergencies. The Building Official or its authorized representatives shall have the authority to disconnect any electric power or energy service supplied to the building, structure or building service equipment therein regulated by this code in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official or its authorized representatives shall whenever practicable notify the serving utility, the owner and occupant of the building, structure or electrical system or equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

2. Authority to condemn electrical system and equipment. Whenever the Building Official or its authorized representatives ascertain that any electrical system or equipment regulated in this code has become hazardous to life, health or property, the Building Official or its authorized representatives shall order in writing that such electrical system or equipment either be removed or restored to a safe condition, whichever is appropriate. The written notice itself shall fix a time limit for compliance with such order. No person shall use or maintain defective electrical systems or equipment after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefor shall be given within twenty-four (24) hours of the order to disconnect to the serving utility, the owner and occupant of such building, structure or premises.

When any electrical system or equipment is maintained in violation of this code and in violation of any notice issued pursuant to the provisions of this section, the Building Official or its authorized representatives shall institute any appropriate action to prevent, restrain, correct or abate the violation.

3. Connection after order to disconnect. No person shall make connections from any energy or power supply nor supply power to any electrical system or equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Inspector authorizes the reconnection and use of such electrical system or equipment.

6-13-24 UNSAFE ELECTRICAL SYSTEMS OR EQUIPMENT. All electrical systems or equipment regulated by this code which constitute a fire hazard, or are otherwise a hazard to safety, health, property or public welfare, are unsafe. All such unsafe electrical systems or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures for repair. As an alternative, the Building Official or its authorized representatives may institute any other appropriate action to prevent, restrain, correct or abate the violation.

6-13-25 VIOLATIONS. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain any electrical system or equipment or cause or permit the same to be done in violation of this code.

6-13-26. PERMITS AND INSPECTIONS, is hereby added as a new article to read as follows:

1. Permits required. Except as specified in subsections (b) and (c) of this section, no electrical system regulated by this code shall be installed, altered, repaired, replaced or remodeled unless a separate electrical permit for each building or structure has first been obtained from the Building Official or its authorized representatives.

2. Exempt work. An electrical permit shall not be required for the following:

a. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by this code.

b. Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.

c. Temporary decorative lighting.

d. Repair or replacement of current-carrying parts of any switch, contractor or control device.

e. Reinstallation of attachment plug receptacles, but not the outlets therefor.

f. Repair or replacement of any overcurrent device of the required capacity in the same location.

g. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.

h. Taping joints.

i. Removal of electrical wiring.

Temporary wiring for experimental purposes in suitable experimental laboratories.

j. The wiring for temporary theater, motion picture or television stage sets.

However, any such exempted work that is to be performed in other than a single-family home by the home owner, shall be performed or directly supervised by a State licensed electrician.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this City.

6-13-27 APPLICATION FOR PERMIT.

1. Application. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the Building Code Committee for that purpose. Every such application shall:

a. Identify and describe the work to be covered by the permit for which application is made.

b. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

c. Indicate the use or occupancy for which the proposed work is intended.

d. Be accompanied by plans, diagrams, computations and specifications and other data as required in subsection (b) of this section.

e. Be signed by permittee, or authorized agent.

f. Give such other data and information as may be required by the Building Official or its authorized representatives.

2. Plans and specifications. Plans, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for a permit. The Building Official or its authorized representatives may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such. EXCEPTION: The Building Official or its authorized representatives may waive the submission of plans, calculations, etc., if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

3. Information on plans and specifications. Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Two sets of plans must be submitted at the time of permit application.

6-13-28 PERMIT ISSUANCE AND EXPIRATION.

1. Issuance. The application, plans and specifications, and other data, filed by an applicant for permit shall be reviewed by the Building Official or its authorized representatives. Such plans may be reviewed by other departments of this City to verify compliance with any applicable laws under their jurisdiction. If the Building Official or its authorized representatives find that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees specified in Section 4 have been paid, a permit shall be issued therefor to the applicant.

When the Building Official or its authorized representatives issue the permit where plans are required, the plans and specifications shall be endorsed in writing or stamped "APPROVED." Such approved plans and specifications shall not be changed, modified or altered without authorization from the Building Official or its authorized representatives, and all work shall be done in accordance with the approved plans.

The Building Official or its authorized representatives may issue a permit for the construction of part of an electrical system before the entire plans and specifications for the whole system have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of such permit shall proceed at personal risk without assurance that the permit for the entire building, structure or building service will be granted.

2. Retention of plans. One set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building work at all times during which the work authorized thereby is in progress. One set of approved plans, specifications and computations shall be retained by the Building Official or its authorized representatives for purposes of public record until final approval of the work.

3. Validity of permit. The issuance of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code, or of any other ordinance of the City. No permit presuming to give authority to violate or cancel the provisions of these codes shall be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Building Official or its authorized representatives from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of these codes or of any other ordinances of this City.

4. Expiration. Every permit issued by the Building Official or its authorized representatives under the provisions of this code shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if the work authorized by such permit is suspended or abandoned for a period of one hundred eighty (180) days following the last inspection of said work. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when unable to commence work within the time required by this section for good and satisfactory reasons. The Building Official or its authorized representatives may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

5. Suspension or revocation. The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of the City.

6-13-29 FEES.

1. Permit fees. The fee for each electrical permit shall be as set forth by Resolution of the Council and may be modified at any time without readopting this ordinance.

2. Plan review fees. When a plan or other data are required to be submitted by subsection (c) of Section 10, a plan review fee shall be paid as set forth by Resolution of the Council. Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged at the rate set by Resolution of the Council.

3. Expiration of plan review. Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by

the Building Official or its authorized representatives. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action, on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

4. Investigation fees; Work without a permit.

a. Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

b. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of either this code nor from any penalty prescribed by law.

5. Fee refunds.

a. The Building Official or its authorized representatives may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

b. The Building Official may authorize the refunding of not more than eighty (80) percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. The Building Official may authorize the refunding of not more than eighty (80) percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

6-13-30 LICENSING. All trades persons must be in compliance with state licensure requirements

6-13-31 INSPECTIONS.

1. General. All electrical systems and equipment for which a permit is required by this code shall be subject to inspection by the Building Inspector. No portion of any electrical system intended to be concealed shall be concealed until inspected and approved. Neither the Building Inspector nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. When the installation of an electrical system and equipment is complete, an additional and final inspection shall be made. Electrical systems and

equipment regulated by this code shall not be connected to the energy source until authorized by the Building Inspector.

2. Inspection requests. It shall be the duty of the person doing the work authorized by a permit to notify the Building Inspector that such work is ready for inspection. The Building Inspector may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Inspector.

It shall be the duty of the person requesting inspections required by this code to provide access to and means for proper inspection of such work.

3. Emergency repairs of electrical equipment. The requirements of this section shall not be construed to prohibit the operation of any electrical system or equipment installed to replace existing equipment. The request for inspection of such equipment must have been filed with the Building Inspector not more than forty-eight (48) hours after such replacement work is completed and before any portion of such electrical system is concealed by any permanent portion of the building.

4. Other inspections. In addition to the called inspections required by this code, the Building Inspector may make or require other inspections of any work to ascertain compliance with the provisions of this code and other laws which are enforced by the Building Code Committee.

5. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This provision is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Inspector.

To obtain a reinspection, the applicant shall file an application therefor in writing upon a form furnished for that purpose, and pay the reinspection fee as set by Resolution of the Council.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

6-13-32 CONNECTION APPROVAL.

1. Energy connections. An electrical system or equipment regulated by this code for which a permit is required shall not be connected to a source of energy or power until approved by the Building Inspector.

2. Temporary connections. The Building Inspector may authorize the temporary connection of the electrical system or equipment to the source of energy or power for the purpose of testing the equipment, or for use under a temporary certificate of occupancy.”

Mechanical Code

6-13-33 PEOSTA MECHANICAL CODE ADOPTED.

There is hereby adopted by reference as the “Peosta Mechanical Code” that certain mechanical code known as the 2012 International Residential Code Chapters 12 to 24 and Code Appendices, as prepared and edited by the International Code Council, subject to the amendment and other provisions of this subchapter. The provisions of the Peosta Mechanical Code shall be controlling for the installation, maintenance and use of heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat-producing appliances within the corporate limits of the City as related to structures covered under the 2012 International Residential Code. A copy of said Code shall be on file in the office of the City Clerk for public inspection. Said International Residential Code is hereby amended as follows:

M1502.4.2 “Duct installation” is hereby replaced with the following:

Exhaust ducts shall be supported at intervals not to exceed 12 feet (3658 mm) and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Exhaust duct joints shall be sealed in accordance with Section M1601.4.1 and shall be mechanically fastened. The use of aluminum ducting is allowed.

(Ord. 2013-04, Passed December 10, 2013)

6-13-34 VIOLATIONS. It shall be unlawful for any person, firm or corporation within the jurisdictional limits of the City to erect, cause or continue any attractive, common or public nuisance declared by any provision of this code or ordinance or any code or ordinance herein adopted by reference; or to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, or maintain any mechanical systems or equipment, or any portion or combination thereof, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code or any code or ordinance herein adopted by reference; or ordinance or any code or ordinance herein adopted by reference.

6-13-35 Permits is hereby amended by repealing subsection (b) "Exempt work" and enacting a new subsection (b) to read as follows:

1. Exempt work. A mechanical permit will not be required for the following:

a. Any portable heating appliance, portable ventilating equipment, portable cooling unit or portable evaporative cooler.

b. Any closed system of steam, hot or chilled water piping within heating and cooling equipment regulated by this code.

c. Replacement of any component part or assembly of an appliance which does not alter its original approval and complies with other applicable requirements of this code.

d. Any refrigeration equipment which is part of the equipment for which a permit has been issued pursuant to the requirements of this code.

e. Any unit refrigerating system.

f. Replacement of any existing domestic gas range or domestic gas clothes dryer as regulated by this subchapter.

g. Any domestic ventilation fan connected to a single duct.

h. For the installation of each domestic hood which is served by mechanical exhausts, including the ducts for such hood.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.”

6-13-36 CERTIFICATE OF COMPETENCY REQUIRED TO PERFORM WORK is hereby added as a new section as follows:

Certificate of Competency Required to Perform Work.

1. Certificate required. It shall be unlawful, except as hereinafter provided, for any person, firm, partnership, corporation, association, or any combination thereof, and also for any accomplice, to perform or assist in performing any act concerning, affecting or relating to the installing or servicing of any matter covered under the provisions of this code unless said person or a member of said firm, partnership, corporation, association, or any combination thereof shall first have been certified by the State of Iowa as being competent to perform such act, or unless such person, firm, corporation, partnership, association, or any combination thereof shall have regularly and steadily in such person's, firm's, corporation's, partnership's or association's employ a person or persons so certified by such board as being competent to perform the act or acts governed by the provisions of this code and who will perform all work within the corporate limits of the City. The holder or holders of certificates of competency shall be the authorized representative or representatives of said firm, partnership, person, corporation, association, or combination thereof in matters concerning, affecting, or related to conformance with the provisions of this code. Final responsibility, however, for compliance with the provisions of this code shall be with the owner or owners of the firm, partnership, corporation, association, or any combination thereof, who agree to undertake the performance of such act or acts; and said owner or owners shall be responsible for obtaining from the State of Iowa the necessary permit or permits, approvals, certificates, etc., before any such act is started at the site of the installing or servicing.

2. No person, firm, partnership, corporation, association, or any combination thereof, shall be granted permission to perform any act other than that which is specified in the certificate or certificates of competency possessed by said person, or member, or employee, or employees of said firm, partnership, corporation, association, or any combination thereof, and such act or acts shall be performed under the direct supervision of such certificate of competency holder or holders. The provisions of this code shall not prohibit any person from assisting in the act or acts of installing or servicing of matter covered by this code when such act or acts are performed under the direct supervision or a person or persons so certified to be competent to perform such act or acts.”

6-13-37 THE TABLES MECHANICAL PERMIT FEES AND MECHANICAL EXAM FEES, REGISTRATION AND CERTIFICATE OF COMPETENCY FEES are hereby amended by repealing such tables and enacting new tables as set forth by Resolution of the Council and may be modified at any time without readopting this ordinance.

6-13-38 LICENSING. All trades persons must be in compliance with state licensure requirements.

6-13-39 INSPECTIONS.

1. General. Upon completion of installation, alteration or repair of gas piping, and prior to the use thereof, the Building Inspector shall be notified that gas piping is ready for inspection.

Excavations required for the installation of underground piping shall be kept open until such time as the piping has been inspected and approved. If piping is covered or concealed before approval, it shall be exposed upon the direction of the Building Inspector.

2. Required inspections. The Building Inspector shall make the following inspections and shall either approve that portion of the work as completed, or shall notify the permit holder wherein the same fails to comply with this subchapter.

a. Rough piping inspection. This inspection shall be made after gas piping authorized by the permit has been installed and before any such piping has been covered or concealed or any fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meet the requirements of this subchapter.

b. Final piping inspection. This inspection shall be made after piping authorized by the permit has been installed and after all portions thereof which are to be covered or concealed are so concealed and before fixtures, appliances or shutoff valves have been attached thereto.

This inspection shall include an air-pressure test, at which time the gas piping shall stand a pressure of not less than ten (10) pounds per square inch gage, or, at the discretion of the Building Inspector, the piping and valves may be tested at a pressure of at least six (6) inches mercury, measured with a manometer or slope gage. Test pressures shall be held for a length of time satisfactory to the Building Inspector but not less than fifteen (15) minutes, with no perceptible drop in pressure. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure, the test pressure shall be not less than

sixty (60) pounds per square inch and shall be continued for a length of time satisfactory to the Building Inspector but not less than thirty (30) minutes. Tests shall be made using air pressure only and shall be made in the presence of the Building Inspector. Necessary apparatus for conducting tests shall be furnished by the permit holder.

3. Other inspections. In cases where the work authorized by the permit consists of a minor installation of additional piping to piping already connected to a gas meter, the foregoing inspections may be waived at the discretion of the Building Inspector. The Building Inspector shall make such inspection as the Building Official deems advisable in order to assure that the work has been performed in accordance with the intent of this subchapter.”

Plumbing Code

6-13-40 PEOSTA PLUMBING CODE ADOPTED.

There is hereby adopted by reference as the “Peosta Plumbing Code” that certain plumbing code known as the 2012 International Residential Code Chapters 25 to 32 and Code Appendices, as prepared and edited by the International Code Council, subject to the amendment and other provisions of this subchapter. The provisions of the Peosta Plumbing Code shall be controlling for the installation, alteration, repair, relocation, replacement, addition to and use or maintenance of plumbing equipment and systems in all matters covered by such plumbing code within the corporate limits of the City, except otherwise provided in Title VI, Chapter 2 and 3 of the Code of Ordinances in respect to sewer and water distribution systems to be located within the City streets. A copy of said 2012 International Residential Code, shall be on file in the office of the City Clerk for public inspection. Said International Residential Code is hereby amended as follows:

1. P2904.2.4.2 “Obstructions to coverage” is hereby repealed by deleting such section.
2. P3009 “Gray water recycling systems” is hereby repealed by deleting such section.
(Ord. 2013-04, Passed December 10, 2013)

6-13-41 ADMINISTRATIVE AUTHORITY is hereby amended by repealing such section.

6-13-42 DUTIES AND POWERS OF THE ADMINISTRATIVE AUTHORITY, is hereby amended by repealing such section and enacting a new section to read as follows:

1. Duties and Powers of the Building Official.
 - a. Authority to disconnect utilities in emergencies. The Building Official or its authorized representatives shall have the authority to disconnect plumbing to a building, structure or equipment regulated by this code in case of emergency where necessary to eliminate an immediate hazard to life or property.
 - b. Authority to order disconnection of utilities. The Building Official or its authorized representatives shall have the authority to order disconnection of any plumbing supplied to a building, structure or equipment regulated by this code when the Building Official or its

authorized representatives ascertain that the equipment or any portion thereof has become hazardous or insanitary. Written notice of such order to disconnect service and the causes therefor shall be given within twenty-four (24) hours to the owner and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection may be made immediately without such notice. The Building Official or its authorized representatives shall immediately notify the serving utility in writing of such order to disconnect.

c. Authority to condemn equipment. Whenever the Building Official or its authorized representatives ascertain that any plumbing, or portion thereof, regulated by this code has become hazardous to life, health, property, or has become insanitary, the Building Official or its authorized representatives shall order in writing that such plumbing either be removed or restored to a safe or sanitary condition, as appropriate. The written notice itself shall fix a time limit for compliance with such order. No person shall use or maintain defective plumbing after receiving such notice.

When such plumbing is to be disconnected, written notice as prescribed in Section 3a (2) shall be given. In cases of immediate danger to life or property, such disconnection may be made immediately without such notice.

d. Reconnection or reuse. No person shall make connections from any energy, fuel, power supply or water distribution system nor supply energy, fuel or water to any equipment regulated by this code which has been disconnected or ordered to be disconnected by the Building Official or its authorized representatives or the use of which has been ordered to be discontinued by the Building Official or its authorized representatives until the Building Official or its authorized representatives authorize the reconnection and use of such equipment.

When any plumbing is maintained in violation of this code, and in violation of any notice issued pursuant to the provisions of this section, the Building Official or its authorized representatives may institute any appropriate action to prevent, restrain, correct or abate the violation.

6-13-43 VIOLATION AND PENALTIES is hereby amended by repealing such section.

6-13-44 PERMITS is hereby amended by repealing such section and enacting a new section to read as follows:

1. Permits required. It shall be unlawful for any person, firm or corporation to make any installation, alteration, repair, replacement or remodel any plumbing system regulated by this code except as permitted in subsection (b) of this section, or cause the same to be done without first obtaining a separate plumbing permit for each separate building or structure.

2. Exempt work. A plumbing permit shall not be required for the following:

a. The clearing of stoppages or repairing of leaks in drains, soil, waste or vent pipes; provided, however, that should any concealed trap, drainpipe, soil, waste or vent pipe be removed and replaced with new material, the same shall be considered as new work and a permit shall be procured and inspection made.

b. The clearing of stoppages or repairing of leaks in piping and/or valves when such repairs do not involve or require the replacement or rearrangement of piping and/or valves.

c. The replacement of inoperable, broken or damaged fixtures, faucets or tanks; provided, however, that replacement items meet the requirements of the Peosta Plumbing Code.”

6-13-45 FEES is hereby amended by repealing such section and enacting a new section in lieu thereof as follows:

1. Permit fees. The fees for each permit shall be as set forth by Resolution of the City Council.

2. Plan review fees. When a plan or other data are required to be submitted, a plan review fee shall be paid. The plan review fees for plumbing work shall be as set forth by Resolution of the City Council. The plan review fees specified in this subsection are separate fees from the permit fees and are in addition to the permit fees.

3. Expiration of plan review. Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official or its authorized representatives. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

4. Investigation fees; Work without a permit.

a. Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

b. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

5. Inspection fees. A fee shall be paid for inspections made outside of normal business hours and for inspections for which no fees are specifically indicated. Inspection fees shall be as set forth by Resolution of the City Council.

6. Fee refunds.

a. The Building Official or its authorized representatives may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

b. The Building Official may authorize the refunding of not more than eighty (80) percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. The Building Official may authorize the refunding of not more than eighty (80) percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

6-13-46 LICENSING. All trades persons must be in compliance with state licensure requirements

6-13-47 DAMAGE TO DRAINAGE SYSTEM OR PUBLIC SEWER is hereby amended by enacting a new subsection to read as follows:

1. Roofs, inner courts, vent shafts, light wells or similar areas having rain water drain, shall discharge to the outside of the building, to the gutter or to a storm drainage system.

2. The installation of sump pumps, sump pump connections or gravity connections which discharge or cause to be discharged, any storm water, surface water, groundwater, roof runoff, subsurface drainage, interior and exterior foundation drains or floor drains used for collecting storm water to any sanitary sewer is specifically prohibited.

6-13-48 DAMAGE TO PUBLIC SEWER OR PRIVATE SEWAGE DISPOSAL SYSTEM is hereby amended enacting a new section to read as follows:

1. It shall be unlawful for any person to deposit, by any means whatsoever, into any plumbing fixture, floor drain, interceptor, sump, receptacle or device which is connected to any drainage system, public sewer or private sewer any ashes, cinders, solids, rags, flammable, poisonous or explosive liquids or gases, oils, grease and any other thing whatsoever which would, or could cause damage to the public sewer or private sewer.

2. No storm water, surface water, ground water, roof runoff, subsurface drainage, interior or exterior foundation drains or floor drains used for collecting storm water shall be connected to or discharged into any drainage system connected to a public or private sanitary sewer.

3. An approved type watertight sewage or waste water holding tank, the contents of which, due to their character, must be periodically removed and disposed of at some approved off-site location, shall be installed only when required by the Building Official or the Health Officer to prevent anticipated surface or subsurface contamination or pollution, damage to the public sewer, or other hazardous or nuisance condition.”

6-13-49 Size of Building Sewers is hereby amended by repealing such section and enacting a new section to read as follows:

The minimum size of any building sewer shall be determined on the basis of the total number of fixture units drained by such sewers. No building sewer shall have a smaller diameter than four (4) inches or the size of the building drain; whichever is larger.

(Ord. 2010-04, Passed September 14, 2010)

6-13-50 Residential fire sprinkler systems are not required in one (1) and two (2) household dwelling units as defined in the 2012 IRC.

(Ord. 2013-04, Passed December 10, 2013)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 14 ADULT ORIENTED ESTABLISHMENTS

6-14-1	Purpose	6-14-4	Development Design Standards
6-14-2	Definitions	6-14-5	Responsibilities of the Operator
6-14-3	Regulations Governing the	6-14-6	Minors
	Location and Spatial Separation of	6-14-7	Hours of Operation
	Adult-Oriented Establishments		

6-14-1 PURPOSE. The City of Peosta finds:

1. Adult-oriented establishments require special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of Peosta;
2. Adult-oriented establishments, because of their very nature, have a detrimental effect on both existing establishments around them and surrounding residential areas adjacent to them;
3. The concern over sexually-transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the community;
4. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area;
5. The City of Peosta wants to minimize these adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
6. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments.

6-14-2 DEFINITIONS. For purposes of this ordinance, the following terms are defined:

1. “Adult Bookstore” - an establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of “adult entertainment,” including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.

2. “Adult Entertainment” - any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

3. “Adult Motion Picture Theater” - an enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.

4. “Adult-Oriented Establishment” - any premises including, without limitation, “adult bookstores,” or “adult motion picture theaters.” It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, where such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. “Adult-Oriented Establishment” further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, or any other term of like import.

5. “Operators” - any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

6. “Specified Anatomical Areas” - less than completely and opaquely covered human genitals, buttocks, female breasts below the areola; or, male genitalia.

7. “Specified Sexual Activities” - simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of sexual activity, sodomy, or sado-masochism; or (c) fondling or erotic touching of human genitals, buttocks, or female breasts.

6-14-3 REGULATIONS GOVERNING THE LOCATION AND SPATIAL SEPARATION OF ADULT-ORIENTED ESTABLISHMENTS. In addition to the provisions of Title VI, Chapter 10, of the Peosta Code of Ordinances, adult-oriented establishments, as herein defined, are declared to be regulated by the following rules:

1. Prohibited Locations. No person, whether as principal or agent, clerk or employee, either alone or for any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any Adult-Oriented Establishments in the following locations:

a. Within two thousand (2,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.

b. Within two thousand (2,000) feet of any public or private school offering general education for students between the years of Kindergarten and Twelfth grade.

- c. Within two thousand (2,000) feet of any daycare home or daycare business.
- d. Within two thousand (2,000) feet of any public park or playground. For purposes of this section, bike paths, trails, waterways, and boat launches shall not be deemed a public park.
- e. Within two thousand (2,000) feet of any other adult entertainment business.
- f. Within two thousand (2,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.

2. Measurement of Distance. The distance between any two adult-oriented establishments shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult-oriented establishment and any religious institution, school, daycare business, public park or playground, or establishment selling alcoholic beverages for consumption on premises shall be measured in a straight line, without regard for intervening structures, from the closest property line of each.

6-14-4 DEVELOPMENT DESIGN STANDARDS.

- 1. Exterior. It shall be unlawful for an owner of an adult-oriented establishment:
 - a. to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.
 - b. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.
 - c. to allow exterior portions of the establishment to be painted other than a single color.
- 2. Signage. The display surfaces of the sign shall not contain any flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner depicting specified anatomical areas or specified sexual activities, except for the name of the enterprise.

6-14-5 RESPONSIBILITIES OF THE OPERATOR. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

6-14-6 MINORS. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any

person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid drivers license issued by a state reflecting that person's age.

6-14-7 HOURS OF OPERATION. An adult-oriented establishment may remain open for business no longer than the hours from between 12:00 PM (Noon) to 2:00 AM, seven days a week.

(Ord. 2008-02, Passed May 27, 2008)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 15 FLOODPLAIN MANAGEMENT

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STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE

6-15-1 **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.

6-15-2 FINDINGS OF FACT.

1. The flood hazard areas of the City of Peosta 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 floodplain causing increases in flood heights and velocities.

6-15-3 STATEMENT OF PURPOSE. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Peosta 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 6-15-2 (1) of this Ordinance with provisions designed to:

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

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

GENERAL PROVISIONS

6-15-4 LANDS TO WHICH ORDINANCE APPLY. The provisions of this Ordinance shall apply to all lands and development which have special flood hazards within the jurisdiction of the City of Peosta. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Dubuque County and Incorporated Areas, City of Peosta, Panel 19061C0330F and 0340F, dated August 10, 2021, which were prepared as part of the Dubuque County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown there to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Dubuque County Flood Insurance Study is hereby adopted and made a part of this Ordinance for the purpose of administering floodplain management regulations.

6-15-5 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 Floodplain Manager 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 Floodplain Manager in the enforcement or administration of this Ordinance.

6-15-6 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.

6-15-7 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.

6-15-8 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.

6-15-9 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Peosta or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

6-15-10 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.

FLOODPLAIN MANAGEMENT STANDARDS

6-15-11 ALL DEVELOPMENT. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have 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.

. All development within the special flood hazard areas shall:

1. Be designed and adequately anchored to prevent flotation, collapse and lateral movement.

2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

6-15-12 RESIDENTIAL STRUCTURES. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon.

Alternate methods of elevating (such as piers) 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 base flood.

6-15-13 NON-RESIDENTIAL STRUCTURE. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level.

When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water.

A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

6-15-14 ALL NEW AND SUBSTANTIALLY IMPROVED STRUCTURES.

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

- 2. 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.
- 3. New and substantially improved structures must be constructed with electrical meter, electrical service panel box, water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation.
- 4. New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation or designed to be watertight and withstand inundation to such level.

6-15-15 FACTORY-BUILT HOMES.

- 1. All new and substantially improvement 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 base flood elevation.
- 2. All new and substantially improvement factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

6-15-16 UTILITY AND SANITARY SYSTEMS.

- 1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- 2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.
- 3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site

systems) shall be provided with a level of protection equal to or greater than one (1) foot above the baseflood elevation.

4. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

6-15-17 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 base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

6-15-18 FLOOD CONTROL STRUCTURAL WORKS. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

6-15-19 WATERCOURSE ALTERATIONS OR RELOCATIONS. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

6-15-20 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 subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance.

Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

6-15-21 ACCESSORY STRUCTURES TO RESIDENTIAL USES.

1. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall not be used for human habitation. The structure shall be used solely for low flood damage potential purposes such as parking of vehicles and limited storage.

b. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet. Those portions of the structure located less than one (1) foot above the base flood elevation must be constructed of flood resistant materials.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of SECTION 6-15-14(1) of this Ordinance.

2. Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

6-15-22 RECREATIONAL VEHICLES.

1. Recreational vehicles are exempt from the requirements of SECTION 6-15-15 of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. 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.

2. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of SECTION 6-15-15 of this Ordinance regarding anchoring and elevation of factory-built homes.

6-15-23 PIPELINES. 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.

6-15-24 MAXIMUM DAMAGE POTENTIAL DEVELOPMENT. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988 to which any structures are

floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

ADMINISTRATION

6-15-25 APPOINTMENT, DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR.

1. The Floodplain Manager is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator. The Floodplain Manager is the Peosta City Administrator.

2. Duties of the Administrator shall include, but not necessarily be limited to the following:

a. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

b. Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

c. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) 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 North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.

e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

g. Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.

h. Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflict.

i. Maintain the accuracy of the community's Flood Insurance Rate Maps when;

- 1) Development placed within the floodway results in any of the following:
 - A. An increase in the Base Flood Elevations, or
 - B. Alteration to the floodway boundary
- 2) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
- 3) Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

- j. Perform site inspections to ensure compliance with the standards of this Ordinance
- k. Forward all requests for Variances to the City Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the City Council.

6-15-26 FLOODPLAIN DEVELOPMENT PERMIT.

1. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

2. Application for Permit - Application shall be made on forms furnished by the Administrator (See Application attached hereto and incorporated into this ordinance) 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 North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

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 (e.g., drawings or a site plan) for the purpose of this Ordinance.

3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.

4. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

6-15-27 VARIANCE.

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 a 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 to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other land or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the City.
- f. The requirements of the facility for a floodplain location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- m. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

e. Floodproofing measures.

NONCONFORMING USES

6-15-28 STRUCTURES. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

6-15-29 RECONSTRUCTION. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

PENALTIES FOR VIOLATION

6-15-30 PENALTIES. Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a simple misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$625.00 (six hundred twenty-five dollars).

Additionally, the City of Peosta can take any other lawful action as is necessary to prevent or remedy violation. The cost associated with enforcement, prevention, or remedies shall be paid by or assessed to the person violating this Ordinance, including but not limited to attorney fees, court costs, materials, maintenance, repair, removal, reconstruction, regarding, replacement, expert services, professional services, or any other costs incurred by the City of Peosta.

(Ord. 2017-06, Passed November 14, 2017)

AMENDMENTS

6-15-31 REGULATIONS AND STANDARDS. The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No

amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

DEFINITIONS

6-15-32 DEFINITIONS Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. “APPURTENANT STRUCTURE” - A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

2. “BASE FLOOD” - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

3. “BASE FLOOD ELEVATION” – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. “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."

5. “DEVELOPMENT” - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

6. “EXISTING CONSTRUCTION” - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".

7. “EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION” - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

8. “EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION” - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

9. "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.

10. "FACTORY-BUILT HOME PARK" - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

11. "FIVE HUNDRED (500) YEAR FLOOD" – A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

12. "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.

13. "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.

14. "FLOOD INSURANCE STUDY (FIS)" – a report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

15. "FLOODPLAIN" - Any land area susceptible to being inundated by water as a result of a flood.

16. "FLOODPLAIN MANAGEMENT" - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

17. "FLOODPROOFING" - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

18. "FLOODWAY" - The channel of a river or stream and those portions of the floodplain s adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

19. "FLOODWAY FRINGE" - Those portions of the Special Flood Hazard Areas outside the floodway.

20. "HIGHEST ADJACENT GRADE" – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

21. "HISTORIC STRUCTURE" - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

22. "LOWEST FLOOR" - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of SECTION 6-15-14 (1) of this Ordinance and
- b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 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.

23. "MAXIMUM DAMAGE POTENTIAL DAMAGE" – Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

24. "MINOR PROJECTS" - Small development activities (except for filling, grading and excavating) valued at less than \$500.

25. "NEW CONSTRUCTION" - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

26. "NEW FACTORY-BUILT HOME PARK OR SUBDIVISION" - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

27. "RECREATIONAL VEHICLE" - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

28. "ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES" – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

29. "SPECIAL FLOOD HAZARD AREA" - The land within a community subject to the "base flood". This land is identified as Zone A, AE, AH, AO, AR, and/or A99 on the community's Flood Insurance Rate Map.

30. "START OF CONSTRUCTION" - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date.

The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

31. "STRUCTURE" - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, grain storage facilities and other similar uses.

32. "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

33. "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 (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed on or after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

34. "VARIANCE" - A grant of relief by a community from the terms of the floodplain management regulations.

(Ord. 2012-06, Passed July 10, 2012)

(Ord. 2021-03, Passed April 27, 2021)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 16 SIGN REGULATIONS

6-16-1	General	6-16-7	Signs in Special Use Permit Areas and Zoning Areas
6-16-2	Definitions	6-16-8	General Sign Regulations
6-16-3	Sign Permits and Inspections	6-16-9	Specific Sign Regulations
6-16-4	Prohibited Signs	6-16-10	Temporary Signs
6-16-5	Exempt Signs	6-16-11	Change in Use
6-16-6	Signs in Restricted Residence District	6-16-12	Nonconforming Signs

6-16-1 GENERAL. A sign shall not hereafter be erected, re-erected, constructed, altered, or maintained, except as provided by this chapter and after a permit has been issued by the City Council

6-16-2 DEFINITIONS. The following definitions are given for words used in this chapter:

1. “Awning sign” means a sign attached to or in any way incorporated with the face of an awning or any other similar projection, and which does not extend beyond the projection.

2. “Development sign” means a permanent sign that displays the name of a development or of a multi-lot subdivision.

3. “Display surface” means the area made available by the sign structure for the purpose of displaying the advertising message.

4. “Ground sign” means a sign which is supported by one or more uprights or braces and which is firmly and permanently anchored in or on the ground and which is not attached to any building.

5. “Identification sign” means a sign displaying the name, address, crest, insignia or trademark, occupation, or profession of an occupant of a building or the name of any building on the premises.

6. “Information sign” means a sign displayed strictly for the direction, safety or convenience of the public and which sets forth no advertisement. Information signs include signs which identify parking areas and drives, restrooms, addresses, telephones, exits and entrances, no trespassing areas, danger areas and similar information.

7. “Marquee” means a permanent roofed structure attached to and supported by the building and projecting over public property.

8. “Off-premises sign” means a sign which directs attention to a use conducted off the lot on which the sign is located.

9. “Painted sign” means a sign painted directly on an exterior surface of a building, window or wall.

10. “Pole sign” means a ground sign wholly supported by a tubular sign structure in the ground.

11. “Political sign” means a temporary sign announcing candidates seeking public office, a political issue or containing other election information.

12. “Portable sign” means a sign that is not firmly and permanently anchored or secured to either a building or the ground.

13. “Projecting sign” means a sign which projects from and is supported by a wall of a building or structure, with the exposed face of the sign on plane not parallel to the plane of the wall.

14. “Projection” means the distance by which a sign extends over public property or beyond the building line.

15. “Real estate sign” means a temporary sign which advertises the sale, rental or lease of property.

16. “Roof sign” means a sign erected upon or above a roof or parapet of a building or structure.

17. “Sign” means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising or other purpose.

18. “Sign structure” means any structure that supports or is capable of supporting a sign as defined in this code.

19. “Swinging sign” means a sign which, because of its design, construction, suspension or attachment, is free to swing or move noticeably because of the wind.

20. “Temporary sign” means any banner, pendant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.

21. “Wall sign” means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign on plane parallel to the plane of the wall.

6-16-3 SIGN PERMITS AND INSPECTIONS.

1. Permits Required. It is unlawful for any person to erect, alter, or relocate within the City any sign requiring a permit without first obtaining a sign permit from the City Council. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code and shall be approved and labeled by a nationally recognized testing lab. No signs shall be erected on a

property without the authorization of the property owner or authorized agent. Sign permits shall be issued only for signs which are in accord with the approved sign plan on file with the City Council.

2. Application for Permit. An Application for a permit shall be made upon forms provided by the City Clerk and shall at a minimum contain or have attached thereto the following information:

a. Applicant Information. Name, address, email and telephone number of the applicant.

b. Plans and Specifications. One copy of detailed drawings of the plans and specifications and method of construction and attachment to the building or in the ground. Such blueprint or ink drawing shall show the location of sign or signs and shall certify the distance from each other, from signs on adjacent property, from points of ingress and egress and from adjacent property lot lines.

c. Calculations. Stress sheets and calculations showing the structure is designed for dead load and 30 pounds per square foot wind pressure in any direction in the amount required by this and all other laws and ordinances of the City.

d. Erector. Name of the person or association erecting structure.

e. Valuation. Valuation of sign.

f. Other. Such other information as the City Council shall require in order to show full compliance with this and all other laws and ordinances of the City.

3. Permit Expiration. If the work authorized under a sign permit has not been commenced within six months after the date of issuance, the permit shall become null and void and the applicant must re-apply for a sign permit prior to installing a sign.

4. Permit Fees. A fee, as determined by resolution of the Council, shall accompany all applications for sign permits.

5. Revocation of Permits. The City Council is hereby authorized and empowered to revoke any sign permits issued by the City upon failure of the holder thereof to comply with any provisions of this chapter.

6. Penalty for No Permit. In the event the erection, construction or reconstruction of any sign is commenced without first obtaining a permit, there shall be, in addition to the required sign permit fee, an on-site inspection fee of \$50. This provision does not preclude any enforcement or penalty provisions contained in this code.

7. Inspections Required. All construction or work for which a permit is required shall be subject to inspection by the City Council.

8. Maintenance and Safety Inspections. The City Council may cause to be inspected from time to time, as deemed necessary, any sign regulated by this chapter for the purpose of ascertaining whether the same is secure, whether it is in need of removal or repair and whether it complies with this chapter.

6-16-4 PROHIBITED SIGNS. The following devices and locations are specifically prohibited:

1. In Public Rights-of-Way. No sign or sign structure other than an official traffic, street or related sign approved for placement by the controlling public agency shall be placed on any street or highway right-of-way, except certain Temporary Signs as defined within this chapter. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

2. Without Consent of Owner. No sign or sign structure shall be placed on private property without the consent of the owner or authorized agent thereof.

3. Imitation or Resemblance to Traffic Control and Safety Signs. No sign or sign structure shall be erected at any location where it may be reason of its size, shape, design, location, content, coloring or manner of illumination constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by obscuring or otherwise physically interfering with any official traffic control device or which may be confused with an official traffic control device. No rotating beacon, beam or flashing illumination resembling an emergency light shall be used in connection with any sign display or be visible from an adjacent street. No lights resembling an emergency light and no such words as "Stop," "Look," "Danger," or any other lights, words, phrases, symbols or characters which in any manner may interfere with, mislead or confuse vehicle operators shall be used in a location which is visible to vehicular traffic. No sign shall be located in such a manner as to impede the corner visual clearance.

4. Exits Shall Remain Unobstructed. No sign shall be erected so as to prevent free ingress to or egress from any door, window, fire escape or any other exit required by the Building Code or Fire Code of the City, or any other portion of this Code of Ordinances.

5. Unsafe Attachments. No sign shall be attached to a standpipe, gutter drain, unbraced parapet wall or fire escape.

6. Portable Signs. Portable signs, except as permitted as temporary signs.

7. Vehicle Signage. Any sign attached to or placed on a vehicle or trailer parked on public or private property. This section does not prohibit the identification of a firm or its principal products on a vehicle operating during the normal course of business or being taken home.

8. Revolving Signs. No portion or part of a sign shall revolve nor shall the entire sign revolve.

9. Roof Signs. No roof signs shall be allowed.

10. Swinging Signs. No swinging signs over 24 square inches shall be allowed.

11. Wall and Fence Signs. Painting or affixing a sign to a wall or fence is prohibited. An advertising sign message or copy shall not be painted or affixed directly on a wall or fence.

12. Projecting Signs. Projecting signs, unless specifically approved by the City Council. See specific sign regulations in this chapter for details.

13. Off-Premises Signs, including billboard signs.

14. Banners and Pennants. No banners, pennants, twirling signs, balloons or other similar devices shall be allowed as permanent signs but may be permitted for temporary purposes as specified in the Temporary Signs section.

15. Bench Signs.

6-16-5 EXEMPT SIGNS. The following signs are exempt from the provisions of this chapter.

1. Miscellaneous Signs. Miscellaneous traffic or other signs of a public agency, such as railroad crossing signs and signs that warn of danger, hazards or unsafe conditions.

2. Official Flags and Emblems. Display of any official flag or emblem of a nation, state or city.

3. City Entrance. City identification and entrance signs installed by the City.

4. Inside Signs. Any sign which is located within a building and not intended to be visible from outside the building.

5. Art. Works of fine art that are not displayed in conjunction with a commercial enterprise for the principal purpose of commercial advertisement.

6. Temporary Decoration. Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic or religious holidays that are not displayed in conjunction with a commercial enterprise for the principal purpose of commercial advertisement.

7. Small Vehicle Signs. Signs no larger than one square foot applied directly or attached directly to the body of a car, bus, trailer or other vehicle are exempt from the regulations of this section if such vehicle has a valid registration, is utilized in the normal course of a business or in the operator's usual routine activities and such vehicle is not used primarily for the display of such sign or signs.

8. Nameplates. Nameplates that are posted in conjunction with doorbells or mailboxes and do not exceed 24 square inches in surface area.

9. Legal Postings. Legally required signs and notices required to be displayed, maintained or posted by law or by any court or governmental order, rule or regulation.

10. Information Signs as defined in Section 2.

11. Address Signs. Address signs, not exceeding one square foot in surface area, containing only the address of the premises upon which it is located and limited to no more than one sign for every 40 feet of lot street frontage.

12. Window Informational Signs. Window informational sign displaying information about the operation of the business, such as days and hours of operation, telephone number and credit cards accepted. Such signs shall not exceed a maximum area of two square feet.

6-16-6 SIGNS IN RESTRICTED RESIDENCE DISTRICT

1. Neighborhood or Development Signs. Residential developments or neighborhoods of four or more dwelling units shall be permitted one identification sign for each public street frontage or each entrance. Such signs may be placed in any location on private property provided the sign does not exceed six feet.

2. Religious Use Signs. Each religious principal use shall be permitted wall signs and one ground sign per public street frontage, subject to the following size requirements.

a. Maximum Wall Sign Area. The total area of wall signage shall not exceed one square foot for each lineal foot of building wall when viewed in elevation, not to exceed 40 square feet.

b. Maximum Ground Sign Area. One ground sign is permitted per public street access. The surface area for each sign shall not exceed 25 square feet and the height shall not exceed 5 feet.

6-16-7 SIGNS IN SPECIAL USE PERMIT AREAS AND NO ZONING AREAS

All signs will require Council approval; applicant must submit a site plan showing the location, size and height of the sign. Maximum height not to exceed 40 feet.

6-16-8 GENERAL SIGN REGULATIONS

1. Sign Illumination. All sign illumination shall be from the interior or from floodlight projection shielded to preclude glare visible from public right-of-way and neighboring properties.

2. Measurement of Sign Area. The square footage of a sign made up of letters, words, or symbols within a frame shall be determined from the outside edge of the frame itself. The square footage of a sign composed of only letters, words, or symbols shall be determined from imaginary straight lines drawn around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one side only. Three-dimensional or multi-faced signs shall be calculated as the maximum area visible from any single direction at any point in time.

3. Condition and Maintenance. All signs, together with supports, braces, and anchors, shall be of rust-inhibitive material or treatment and shall be maintained in good condition in the opinion of the City Council. The display surfaces of all signs shall be kept neatly painted or posted at all times by the property owner.

4. Electronic Message Signs. Electronic message signs that display time and temperature or provide changing messages are permitted.

5. Code Compliance. The construction, installation, erection, anchorage, and maintenance of all signs are subject to the applicable provisions of this section and other applicable codes. All signs and sign structures shall be designed and constructed to withstand load pressures as regulated by the City Council.

6. Landscaping. All ground signs shall have one square foot of landscaping at the base of the sign for each two square feet of sign surface area. All landscaping must be maintained at all times by the property owner.

7. Corner Visual Clearance. Signs shall not be located within the corner visual clearance area. Additional limitations upon location, size, and height of any such signs may be required by the City if additional requirements are necessary to meet standard traffic engineering practices.

8. Interference with Utilities. Signs and their supporting structures shall not interfere with any equipment or lines for utilities including water, sewage, gas, electricity, or communications.

9. Obstruction to Doors, Windows, or Fire Escapes. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire extinguisher system. No sign shall obstruct or interfere with any opening required for ventilation.

10. Sign Mounting. All signs shall be mounted in one of the following manners:

- a. Flat against a building or wall, or
- b. Back to back in pairs, so that the backs of such signs will be screened from public view, or
- c. In clusters in an arrangement that will screen the backs of the signs from public view, or
- d. Otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color that blends with the surrounding environment.

6-16-9 SPECIFIC SIGN REGULATIONS

The conditions of this section are applicable to all signs.

1. Setback. No part of any sign shall be closer than two feet from the established property line.

2. Minimum Clearances over Access Ways. Unless a greater or lesser minimum height is specifically listed for a particular sign, any part of a sign which projects into or over any access way shall have a minimum height of not less than the following:

a. Vehicular way: 14 feet

b. Pedestrian way: 8 feet

3. Minimum Distance Between Signs. All ground signs in the districts in which they are allowed shall have a minimum distance separation of 150 feet.

4. Directional Signs.

a. No more than two directional signs per street entrance shall be permitted for any enterprise, business or institution.

b. Such signs shall be for the sole purpose of ensuring safe and convenient access to the property.

c. No such sign shall exceed two square feet in area in the residential zones and shall not exceed three square feet in area in all other zones.

5. Community Event Message Signs.

a. A nonprofit organization shall be eligible to apply for a conditional use permit to allow a community event message sign to allow the display of changing messages and information on such matters as the date, time, location and sponsor of special events of community interest. Such signs shall meet the following standards and conditions:

1) Each nonprofit organization shall be eligible for no more than one wall sign or one ground sign.

2) The maximum area available shall be 50 percent of the base permitted sign area if located in a residential zone or 100 percent if located in any other zone.

3) Permanent advertising of a commercial nature shall be allowed only in no zoning or special use permit areas and shall not exceed 25 percent of the total area of the community event message sign.

4) The sign shall be made reasonably available to other community-based nonprofit organizations for the display of information about special events or other announcements of a noncommercial nature.

5) The sign shall not be of a size or sited in such a manner that will substantially hinder the visibility of other legal signs on adjacent properties.

b. In reviewing an application for a community event message sign, the Council shall consider the following objectives, or may impose conditions to ensure that these objectives are met:

1) By virtue of the sign's design, size, location and other factors, including appropriate landscaping, the sign shall be harmonious and compatible with its surroundings and consistent with community aesthetic sensibilities.

2) The sign shall not be erected or any electronic or electric changing copy be controlled in a manner that will be a substantial distraction to motorists, thus causing a traffic hazard.

6. Projecting Signs. Projecting signs are allowed only upon approval by the City Council. Application for the sign permit shall be consistent with Section 7 regarding submission materials. Projecting signs shall meet all setback, clearance, area, number, and general regulations in this chapter. The City shall determine if the sign is appropriate for the location proposed and if the design is consistent with City aesthetic design goals regarding the following factors:

a. Signs may be attached only to building walls. They may not be hung from roofs, fences or eaves.

b. Colors and design theme are required to be consistent with the building to which the sign is attached.

c. Projection is required to be minimized to the maximum extent possible.

d. If lit, internal lighting is required.

e. All messages on the sign shall relate to the principal on-site use.

f. The mounting technique shall be safe and attractive.

g. Other considerations unique to the specific sign proposed and the site.

7. Intersection Landscaped Areas. No signage of any kind is permitted within the landscaped areas at street intersections and no signage shall be placed so that it obscures said landscaped areas.

6-16-10 TEMPORARY SIGNS

1. Political Signs.

a. Political signs shall be permitted in all zones but not within any public street right-of-way or on any public land.

b. Such signs shall not exceed 8 square feet in area and shall not exceed 42 inches in height.

c. Political signs shall be permitted only for a period of 90 days prior to the election and shall be removed within 10 days after the election.

d. Political signs established in violation of this section may be immediately removed by the City.

e. Permits are not required for temporary political signs.

2. Real Estate Signs.

a. Real estate signs shall be permitted in all zones, provided that all such signs shall be located on the property to which they apply, except as provided in Paragraphs d and e of this section.

b. Real estate signs shall conform to the following maximum size requirements: Four square feet in area for the first 10,000 square feet in lot area plus four square feet for each additional 10,000 square feet of lot area, not to exceed a total sign size of 32 square feet.

c. Real estate signs shall be removed upon closing of the sale.

d. In addition to lot-specific real estate signs, signs advertising the sale of lots within a subdivision shall be permitted. No more than one sign per entrance into the subdivision shall be allowed and each sign shall be no greater than 32 square feet in area, no greater than 8 feet in height and in place no longer than a period of three years.

e. Open house real estate signs may be located within the street right-of-way between the curb and sidewalk but not for more than 48 hours before or more than four hours after the open house is held. Open house real estate signs shall be placed so that no part of the sign is closer to the roadway than three feet from the back of the curb and shall not be placed within a gravel shoulder. No signage of any kind is permitted within the landscaped areas at street intersections and no signage shall be placed so that it obscures said landscaped areas. Any signs including real estate signs placed in the street right-of-way are posted entirely and solely at the risk of the sign owner and may be removed at will and disposed of without notice by the adjacent lot owner or by City staff.

f. Permits are not required for temporary real estate signs.

3. Special Sale Signs. Special sale signs, including banner signs and vertical signs as specified by the City, may be displayed for no more than 10 continuous days up to five times per calendar year. Horizontal banners, yard signs, trailer signs, and all other similar signage are not allowed to substitute under any condition for the sign designs permitted by the City. A permit is required.

a. Banner Signs.

1) Sale and grand opening signs as defined herein are permitted in all zones except residential. Such signs shall be removed immediately upon termination of the special event or at the end of 10 days, whichever comes first.

2) All such signs must be attached to the façade, wall or window of the building occupying or conducting the sale or event which they advertise or erected on temporary posts/supports within one foot of the façade, wall or window.

3) No business shall have more than two such signs for each façade or wall of the building to which they are attached.

4) The total sign size shall not exceed 50 percent of the size of the permitted wall sign or 25 square feet in area, whichever is greater.

b. Vertical Signs.

1) Special event vertical as defined herein are permitted in all zones except residential. Such signs shall be removed immediately upon termination of the special event or at the end of 10 days, whichever comes first. Only sail-shaped vertical flag signs consistent with City specifications are allowed under these rules.

2) The signs may be inserted into the ground, freestanding on a weighted base or attached to a building, but in all cases shall be kept vertical.

3) The signs shall be located only on the private property hosting the event and not within any part of the City right-of-way.

4) The number of vertical signs allowed per property shall be as follows:

i. For lots with a single business: Two signs per street frontage are permitted; however, one additional sign is permitted for each additional 50 feet of frontage over 100’.

ii. For multi-tenant lots: Two signs per street frontage are permitted; however, one additional sign is permitted for each additional 50 feet of frontage over 100’. Tenants of multi-tenant lots shall ensure that collectively the display of vertical signs does not exceed the maximum number requirement, and any fines or penalties assessed for violation of these requirements may be assessed to the owners of all such signs placed on the multi-tenant lot.

5) Garage Sale Signs.

i. Garage sale signs are permitted in all zones.

ii. Garage sale signs shall be displayed not for more than 48 hours before or more than four hours after the end of the sale.

iii. Such signs shall not be located within the street right-of-way between the curb and sidewalk. They shall not be located on gravel shoulders, within landscaped areas or

obstructing landscaped areas at street intersections, nor shall they be attached to any traffic control posts or other public structures.

iv. A permit is not required for garage sale signs.

6) Community Event Signs. Promotional signs advertising a special community event such as a fair, farmer's market or parade may be permitted to be located over the public right-of-way or on public property. The size, location and method of erection of such signs shall be subject to approval by the City Council or designee.

6-16-11 CHANGE IN USE. Whenever the use of land or structure changes, any signs that do not relate to the new use or to any product or service associated with the new use shall be removed or appropriately altered consistent with the provisions of this section. Furthermore, it shall be the responsibility of the property owner of the land to remove any sign or signs on premises where the associated use has been discontinued for a period of more than 90 days.

6-16-12 NONCONFORMING SIGNS. Whenever a business, person, enterprise or institution for which existing signage does not conform to the requirements of this chapter seeks to structurally alter or enlarge an existing sign or erect or install a new sign, the provisions of this section shall apply as follows:

1. The alteration, enlargement, installation or erection of signage shall not increase the degree of nonconformity.

2. If the value of the structural alteration to a nonconforming sign equals or exceeds 50 percent of the value of the sign, as determined by the City Clerk, the sign shall be made to conform to all provisions of this chapter.

3. Enlargement, installation or erection of conforming signage shall be accompanied by a reduction in the degree of nonconformity for other signage existing on the premises. This reduction in the degree of nonconformity can be accomplished by reduction in size of existing sign (if nonconforming by square feet), removal (if nonconforming by the number of signs), relocation (if nonconforming by location) or a combination of reduction, removal and relocation of nonconforming signage shall equal, as nearly as practical, 75 percent of the value of the new or enlarged conforming signage or the costs necessary to bring all signage on the premises into conformance with this section, whichever is the lesser requirement.

4. The provisions of items 2 and 3 of this section do not apply to temporary or illegal signs. Temporary signs that do not comply with the requirements of this chapter and other illegal signs shall be removed upon notification of the sign's nonconformity.

(Ord. 2013-02, Passed October 22, 2013)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 17 PLANNING AND ZONING COMMISSION

6-17-1	Commission Created	6-17-4	Vacancies
6-17-2	Membership of the Commission	6-17-5	Compensation
6-17-3	Term of Office	6-17-6	Powers and Duties

6-17-1 COMMISSION CREATED. Under and by virtue of the authority conferred by Chapter 414.6 of the Code of Iowa, 2013, a City Planning and Zoning Commission, hereinafter referred to as the Commission, is hereby created and established.

6-17-2 MEMBERSHIP OF THE COMMISSION. The Commission shall consist of five (5) members, four of whom are residents of the City. The additional member of the Commission may be a resident of the area outside the City over which the zoning jurisdiction of the city as been extended. All members shall be qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold any elective office in the city government. All five (5) members shall be appointed by the City Council.

(Ord. 2021-01, Passed February 23, 2021)

6-17-3 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years, except that the initial terms under the provisions of this ordinance shall be one member shall serve for two years, two members shall serve for three years, and two members shall serve for five years.

6-17-4 VACANCIES. If any vacancy shall exist on the Commission caused by resignation, or otherwise, the City Council shall appoint a successor for the residue of said term.

6-17-5 COMPENSATION. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the City Council.

6-17-6 POWERS AND DUTIES. The Commission has and exercises the following powers and duties:

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

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

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

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

5. Comprehensive Plan: Preparation. For the purpose of making a Comprehensive Plan for the physical development of the City, the Commission shall make careful and comprehensive studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

6. Comprehensive Plan: Public Hearing. Before adopting a Comprehensive Plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the City not less than seven (7) or more than twenty (20) days before the date of hearing. However, in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. The adoption of the Plan or part or amendment thereof shall be by resolution of the Commission carried by the affirmative vote of not less than two-thirds (2/3) of the members of the Commission. After adoption of said Plan by the Commission an attested copy thereof shall be certified to the Council and the Council may approve the same. When said Plan or any modification or amendment thereof shall receive the approval of the Council, the said Plan until subsequently modified or amended as herein authorized shall constitute the official City Comprehensive Plan.

7. Comprehensive Plan: Amendments. When the Comprehensive Plan has been adopted, no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Commission for its recommendations. If the Commission disapproves the proposed change it may be adopted by the Council only by the affirmative vote of at least three-fourths (3/4) of the members of the Council.

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

9. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions or land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City,

shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

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

11. Zoning. The Commission shall have and exercise all the powers and duties and privileges in preparing and amending the City Zoning Code as provided by Chapter 414 of the Code of Iowa.

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

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

(Ord. 2013-03, Passed January 28, 2014)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 18 TREES

6-18-1 Definition

6-18-2 Planting Restrictions

6-18-3 Duty to Trim Trees

6-18-4 Trimming Trees to be Supervised

6-18-5 Disease Control

6-18-6 Inspection and Removal

6-18-7 Trees Near Intersection Prohibited

6-18-1 **DEFINITION.** For use in this chapter, “parking” means that part of the street 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 lying between the lot line and that portion of the street usually traveled by vehicular traffic.

6-18-2 **PLANTING RESTRICTIONS.** No person shall plant any trees or shrubs within the parking unless said person agrees to plant and maintain the trees and shrubs according to an approved site plan and further agrees to be responsible for any and all liability arising from the planting of trees and shrubs within the parking. The work must be done by a responsible, insured contractor approved by the Council. Requests for such approval shall be made to the Council in writing and include a site plan showing the varieties and placement of the trees and shrubs to be planted within the parking and who is to do the work. Anyone violating any of the provisions of this section shall be ordered to remove the trees or shrubs, or removal shall be done by the City at the planter’s cost.

6-18-3 **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 (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

6-18-4 **TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 3, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

6-18-5 **DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

6-18-6 **INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. **City Property.** If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause

such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

6-18-7 TREES NEAR INTERSECTIONS PROHIBITED. All owners of corner lots within the City are prohibited from planting or maintaining trees, shrubs, vines or other plant life at the corner of such lots nearest the intersection of streets bounding such lots, which trees, shrubs or vines obstruct the view of motorists operating their automobiles at such intersections so that a clear view of the intersecting street cannot be had by the approaching motorists for a distance of at least fifty (50) feet along such intersecting street. In the event any person plants or maintains shrubs, trees, vines or other plant life at such corners which obstruct the view of motorists at such intersections, the same shall be trimmed or removed so that motorists approaching such intersection on both streets may have a clear view of the intersection.

(Ord. 2014-02, Passed July 22, 2014)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 19 OUTDOOR FURNACES

6-19-1	Purpose	6-19-4	General Requirements
6-19-2	Definitions	6-19-5	Permit Applications
6-19-3	Existing Outdoor Furnaces	6-19-6	Enforcement and Violations

6-19-1 **PURPOSE.** The Peosta 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 Peosta, to promote the public health, comfort, safety and welfare of the public.

6-19-2 **DEFINITIONS.** For the purposes of this Chapter, the following definitions apply:

1. “Existing Outdoor Furnaces” means any outdoor furnace in existence as of May 14, 2019.

2. “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.

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

6-19-3 **EXISTING OUTDOOR FURNACES.** Any outdoor furnace in existence on May 14, 2019, shall be permitted to remain, subject to the following requirements:

6-19-4 **GENERAL REQUIREMENTS.**

1. The owner of any outdoor furnace in existence as of May 14, 2019, shall apply for and receive an outdoor furnace permit from the City Clerk.

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.

6-19-5 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 Peosta. 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 Peosta 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.

6-19-6 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.

(ECIA Model Code Amended in 2017)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 20 RECREATIONAL VEHICLE/TRAVEL TRAILER RESIDENCE

6-20-1 Definitions

6-20-2 Occupancy

6-20-1 DEFINITIONS.

1. A “recreational vehicle” is defined as:
 - a. A factory-built vehicular structure, not certified as a manufactured home;
 - b. Designed only for recreational use and not as a primary residence or for permanent occupancy;
 - c. Any vehicle which is self-propelled;
 - d. Built and certified in accordance with either the NFPA1192-15, standard for recreational vehicles, or ANSI A119.5-15, recreational park trailer standard.

6-20-2 OCCUPANCY.

1. No recreational vehicle or travel trailer shall be used as a permanent residence or occupied for more than ten (10) days in any twelve (12) month period within the city.
2. Occupancy of a recreational vehicle, travel trailer, or motor home is permitted for up to 60 days, provided the vehicle or trailer is located within an approved campground or travel park within the city.

(ECIA Model Code Amended in 2020)

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 21 POST-CONSTRUCTION STORMWATER MANAGEMENT

6-21-1	Title	6-21-17	Owner Responsibility
6-21-2	Purpose	6-21-18	Maintenance and Repair
6-21-3	Definitions		Easement
6-21-4	Administration	6-21-19	Maintenance Covenants
6-21-5	Ultimate Responsibility	6-21-20	Requirements for Maintenance
6-21-6	Manual		Covenants
6-21-7	Applicability	6-21-21	Inspection of Stormwater Bmps
6-21-8	Performance Standards	6-21-22	Right-of-Entry for Inspection
6-21-9	Management Practices	6-21-23	Records of Installation and
6-21-10	Post-Construction		Maintenance and Repair Activities
	Stormwater	6-21-24	Municipal Infraction
	Management Submittal	6-21-25	Abatement Required
6-21-11	Indemnify City	6-21-26	Stop Work Order
6-21-12	Permit Issuance or Denial	6-21-27	Enforcement and Penalties
6-21-13	Notice of Construction	6-21-28	Appeal
	Commencement	6-21-29	Enforcement
6-21-14	Construction Violations	6-21-30	Cost of Abatement of Violation
6-21-15	As-Built Drawings	6-21-31	Injunctive Relief
6-21-16	Stabilization Requirements		

6-21-1 TITLE. A chapter amending City-wide standards for the quantity and quality of water that runs off land under construction within the City.

6-21-2 PURPOSE. The purpose of this chapter is to help protect the City's surface waters and quality of life by reducing the negative impacts of sediment, rainfall, melting snow and other water runoff. This chapter seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from development within the city limits and fringe area in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;
3. Minimize the total annual volume of surface water runoff which flows from any specific development project site after completion to not exceed the predevelopment hydrologic regime to the maximum extent practicable; and

4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through establishment of appropriate minimum stormwater management standards and BMPs and to ensure that BMPs are properly maintained and pose no threat to public safety.

6-21-3 DEFINITIONS. For the purpose of this chapter all words shall carry their customary meanings, except where specifically defined herein. The use of the present tense shall include the past and future tenses, and the future the present; the word “shall” is mandatory, while the word “may” is permissive; the singular number shall include the plural and the plural the singular.

1. “Applicant” means a property owner or agent of a property owner who has filed an application for a stormwater management permit.

2. “Best management practice” (or “BMP”) means structural and non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff.

3. “Bioretention” means a storm water infiltration device consisting of an excavated area that is backfilled with an engineered soil, covered with a mulch layer and planted with a diversity of woody or herbaceous vegetation.

4. “Building” means any structure having a roof supported by columns or walls for the housing or enclosure of persons or corporation, animals, or property. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then such portion shall be deemed to be a separate building.

5. “Channel Protection Volume” (CPv) is the volume of runoff produced from a 1-year, 24-hour design storm on a post-development site, which is detained for an extended period of time (24 hours or more).

6. “City Engineer” means the officer designated and authorized by the City Council to carry out various functions as specified in this chapter.

7. “Clearing” means the stripping, grubbing, scalping or removal of trees and stumps, and removing and disposing of all vegetation and debris within the site, and includes the conditions resulting therefrom.

8. “Construction” means the erection, alteration, repair, renovation, demolition or removal of any building or structures; and the clearing, stripping excavating, filling grading and regulation of sites in connection therewith.

9. “Design storm” means hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e. 24-hours) and timing of distribution (i.e. type II). All values are based on the historical rainfall records for the area.

10. “Detention basin” means a stormwater management facility designed to protect against flooding and, in some cases, downstream erosion by storing water for a limited period of a time. Detention basins do not retain a significant permanent pool of water between runoff events.

11. “Developer” means any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under this chapter to effect the development of land.

12. “Development” means construction of buildings, other structures, impervious surfaces, and/or soil disturbance to the extent that peak runoff rates and volumes are increased, in a location where no such features currently exist.

13. “Directly connected impervious area” means an impervious surface that is directly connected to a storm sewer or water of the state via an impervious flow path.

14. “Drainage Easement” means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

15. “Erosion” means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.

16. “Extreme Flood Protection (Qf)” means the controlling of post- development runoff 100-year peak flows to prevent flood damage from large storm events, maintain the boundaries of the pre- development 100-year Federal Emergency Management Agency (FEMA) and/or locally designated floodplain, and protect the physical integrity of BMP control structures.

17. “Floodplain” means a flat or nearly flat land adjacent to a stream or river that experiences occasional or periodic flooding.

18. “Hotspot land use” means a site that produces higher concentrations of trace metals, hydrocarbons or other priority pollutants than are normally found in urban stormwater runoff. Examples of hotspots include gas stations, vehicle service and maintenance areas, salvage yards, material storage sites, garbage transfer facilities, and commercial parking lots with high-intensity use.

19. “Hydrologic soil group (HSG)” has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices

20. “Hydrology” means the study of the movement, distribution, and quality of water throughout the Earth.

21. “Impervious surface” means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this manual, typical gravel driveways and other examples listed shall

be considered impervious unless specifically designed to encourage infiltration or storage of runoff.

22. “Infiltration” means the entry of precipitation or runoff into or through the soil.

23. “Karst features” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

24. “Land disturbing activity” (or “disturbance”) means any man-made alteration of the land surface that may result in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, and pit trench dewatering.

25. “Maintenance Agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water BMPs.

26. “Overbank Flood Protection (Qp)” means the controlling of post- development runoff peak flows to prevent an increase in the frequency and magnitude of out-of-bank flooding generated by development (e.g., flow events that exceed the bank-full capacity of the channel and therefore must spill over into the floodplain).

27. “Peak flow” means the maximum rate at which a unit volume of storm water is discharged.

28. “Post-development condition” means the extent and distribution of land cover types anticipated to occur under conditions of full development that will influence rainfall, runoff and infiltration.

29. “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land development activity.

30. “Pre-settlement condition” means the extent and distribution of land cover types likely present before European settlement.

31. “Rain garden” means a depression area, designed and constructed as a landscape feature that is used to improve water quality and enhance infiltration.

32. “Recharge Volume (Rev)” means the volume of rainfall that is captured on a post-development site and directed through the soil to the groundwater table.

33. “Redevelopment” means any construction, alteration, or improvement performed on sites where the existing site is already predominantly developed.

34. “Runoff” means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.

“Runoff curve number (RCN)” has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Technical Release 55, “Urban Hydrology for Small Watersheds” (commonly known as TR-55).

35. “Sediment” means solid earth material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth’s surface at a different site.

36. “Site” means the entire area included in the legal description of which the land disturbing or land development activity will occur.

37. “Soil” means all earth material of whatever origin that overlies bedrock, and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

38. “Specifications” means the general term comprising all the directions, provisions and requirements, together with such as may be added or adopted as supplemental specifications or special provisions approved by the City Engineer.

39. “Stormwater” has the same meaning as the term “runoff”.

40. “Surface waters” means all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the City of Peosta.

41. “Time of concentration (Tc)” means the time needed for water to flow from the most remote point in a watershed to the watershed outlet. It is a function of topography, geology and land use within the watershed.

42. “Volumetric Runoff Coefficient (Rv)” means the fraction of rainfall during small storm events that becomes runoff, and can be determined by the methodologies described by Scheuler (1987) or Pitt (1994).

43. “Water Quality Volume (WQv)” is the storage needed to capture and treat the runoff from 90% of the average annual rainfall. In numerical terms, it is equivalent to the rainfall depth in inches multiplied by the volumetric runoff coefficient (Rv) for the site, and the site drainage area.

44. “Wetlands” means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

6-21-4 ADMINISTRATION. The Post-Construction Stormwater Management chapter shall be administered by an Engineer identified by the City and the City Administrator.

6-21-5 ULTIMATE RESPONSIBILITY. The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore if any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

6-21-6 MANUAL. The Iowa Stormwater Management BMP Design Standards Manual shall be available for inspection and/or copying during regular business hours at City Hall.

6-21-7 APPLICABILITY. Stormwater management plans and permits are required for any of the following:

1. Required for new development and redevelopment site with 1-acre or more of land disturbing area.
2. Development requiring a subdivision plat.
3. Commercial or industrial development that requires a certified survey map.
4. Any new development or redevelopment, regardless of size, with a Standard Industrial Classification (SIC) code that falls under the NPDES Industrial Stormwater Permit program or a hotspot land use.

6-21-8 PERFORMANCE STANDARDS.

1. If during construction the plans require a spring to be crossed or encroached upon, a stormwater conveyance system may be installed; however, the natural course of the spring must not be redirected or altered.
2. Post-development peak runoff rates for 24-hour storm events must not exceed the following peak runoff rates for the same event:

Exclusion: Sites where 1-year post-development peak discharge is less than 2.0 cfs.

- a. Overbank Flood Protection (Qp). Post-development peak runoff rates for the 2-, 10-, and 25-year, 24-hour storm event must not exceed the pre-settlement peak runoff rate for the same event. Post development peak rates may be further restricted by available capacity of downstream drainage systems.
- b. Extreme Flood Protection (Qf). Post-development peak runoff rates for the 100-year, 24-hour storm event must not exceed the pre- development peak runoff rate for the same event. Post-development peak rates may be further restricted by available capacity of downstream drainage systems.

Table 1: Summary of the City of Peosta unified stormwater sizing criteria for management of stormwater quality and quantity:

Sizing Criteria	Recommended Method
Water Quality Volume WQv	<p>The runoff resulting from a rainfall depth of 1.25 inches or less. Equal to Rev. Goal is to reduce average annual post-development total suspended solids loadings by 80%. Goal is met if Rev is completely infiltrated. $WQv = (Rv)(A)(P)/12$ Rv = site runoff volume coefficient A = site drainage area (acres) P = design rainfall depth = 1.25 inches</p>
Extreme Flood Protection Qf	<p>Evaluate the effects of the 100-year storm on the stormwater management system, adjacent property, and downstream facilities and property. Manage the impacts of the extreme storm event through detention controls and/or floodplain management.</p>

c. Intakes. Storm sewer intake points (inlet grates, endwalls, etc.) should have a minimum capacity to convey the post-development condition 10-year peak flow rate. Intakes shall be design in such manner that the flooded street width shall not exceed:

Table 2: Allowable Pavement Encroachment and Depth of Flow

Street Classification	Maximum Encroachment
Local	No curb overtopping. Flow may spread to crown of street
Collector/Minor Arterial	No curb overtopping. Flow spread must not encroach to within 8 feet of the centerline of a two-lane street. The flow spread for more than two-lane streets must leave the equivalent of two 12-foot driving lanes clear of water; one lane in each direction. For oneway streets, a single 12-foot lane is allowed.
Major Arterials (4, or more, lanes)	No curb overtopping. Flow spread must not exceed 10 feet from the face of the curb of the outside lane. The flow spread for streets with more than two lanes must leave the equivalent of two 12-foot driving lanes clear of water; one lane in each direction. For one-way streets, two 12-foot lanes are required. For special conditions, when an intake is necessary in a raised median, the flow spread should not exceed 4 feet from the face of the median curb for an inside lane.

d. Storm sewers. Storm sewers should have a minimum capacity to convey the post-development condition 10-year peak flow rate. Provisions should be made for the 25- and 100-year peak flow rate when overland flow is not allowed or available. A minimum cleaning velocity of 3 fps should be used for the design storm. Storm sewer and surface water conveyance easements should be dedicated to the public. For those storm sewers that will handle footing drains, the following additional discharge (Q) values should be used:

- i. For less than 50 houses, $Q = 5.0$ gpm (0.011 cfs) per house.
- ii. For greater than 50 houses, $Q = 250$ gpm (0.556 cfs) plus 2.5 gpm (0.0056 cfs) per house for each additional house over 50.

e. Culverts. Culverts should have capacity to convey the following:

i. Post-development condition 25-year peak flow rate without the headwater depth exceeding the diameter of the culvert.

ii. Post-development condition 50-year peak flow rate without the headwater depth exceeding one foot over the top of the culvert.

iii. Post-development condition 100-year peak flow rate without the headwater depth exceeding one foot below the low point of the roadway/embankment, unless there are other, more restrictive elevations.

iv. Private Culverts: Private culverts should be designed with an overflow so that no damage is caused upstream of the proposed culvert.

f. Ditches. Ditches should have capacity to convey the post- development condition 50-year peak flow rate within the ditch banks. Provisions should be made for the post-development condition 100-year peak flow rate to flow overland. Surface water flowage easements should be provided to the general public for all designed drainage ways and overland flow paths.

g. Outlet Stabilization. Stable outlets must have the capacity to handle the designed outflow from the pond outlet or pipe conveyance structures they serve. If the outlet is to be vegetated, it should be constructed and established before installation of other stormwater or erosion control structures. Outlet stabilization shall be designed based on the expected outlet discharge from the 10-year, 24-hour storm event.

h. Open Channel Stabilization. To prevent channels from eroding, the channel lining must be adequate to carry the design velocity and volume. Where velocities are higher than 5 ft/sec or where the channel must carry prolonged flow, the channel should be lined with riprap or other armoring material. Channel linings shall be designed based on the expected channel velocity from the 10-year, 24-hour storm event.

i. In addition to the previously described storm water detention and conveyance requirements previously described, the storm water management systems designed as part of this chapter shall be developed using one (1) or more of the low impact development tools or other best management practices identified in the Iowa Storm Water Manual, as approved by the City of Peosta, or their designated representative.

6-21-9 MANAGEMENT PRACTICES. A comprehensive guide to managing stormwater on post-development sites has been developed by the Iowa Department of Natural Resources. The "Iowa Stormwater Management Manual" can be found on the Internet at: <http://www.ctre.iastate.edu/pubs/stormwater/index.cfm>. Rate control measures listed in this guide include dry detention basins, wet detention basins, low- impact development (LID) and DCIA minimization strategies, infiltration systems, and constructed wetlands. Conveyance design measures listed in this guide include street flow, intake capacity, storm sewer sizing, culvert hydraulics and sizing, open channel flow design, groundwater barriers, and stormwater swale systems. Stormwater infiltration measures listed in this guide include infiltration basins, bioretention systems, infiltration trenches, soil quality restoration, and native landscaping.

Stormwater quality measures listed in this guide include wet detention basins, stormwater swale systems, bioretention systems, constructed wetlands, and native landscaping. Contractors and developers are required to stockpile and redistribute a minimum of four inches of topsoil as part of the final grading for the project or development. The guide contains figures and tables summarizing the appropriate use of each of the measures listed, as well as providing specifications and installation guidelines for each. The use of this guide is strongly encouraged when choosing management practices for post development stormwater. Other guides may be used to design outlet stabilization measures. Acceptable guidelines include the Denver Urban Drainage and Flood Control District publication “Design of Low Tailwater Riprap Basins for Storm Sewer Pipe Outlets”, the FHWA publication HEC-14, and other practices found in Iowa, Wisconsin, Nebraska, and Minnesota Department of Transportation design standards.

6-21-10 POST-CONSTRUCTION STORMWATER MANAGEMENT SUBMITTAL.

****PLEASE NOTE**** A DNR issued General Permit No. 2 will continue to be necessary prior to the beginning of any construction activity that disturbs more than one or more acres or which is part of a larger project that disturbs one or more acres in total. The submittal of site development project will require a descriptive narrative of the site, a site plan, and other supporting documents. They are provided as a minimum guide and are not to be construed as the specific information to be supplied on every project drainage report, and other information may be required. Pre-settlement, pre-development, and post-development conditions for any given site will require analysis unique to that area.

1. Project Report Narrative including the following items:
 - a. A cover sheet with project name and location, name of firm or agency preparing the report, Professional Engineer’s signed and sealed certification, and table of contents. Number each page of the report.
 - b. The nature of the construction activity (e.g. roadway construction, utility construction, single family residential construction, etc.), an estimate of the total area of the project site, and the total anticipated impervious area.
 - c. Watershed size for each drainage area (both onsite and offsite) to determine how much of the area to be developed is affected by other drainage flowing through the site and to design appropriately sized storm sewer, culverts, and drainage channels.
 - d. Describe pre-settlement/pre-development land use, topography, drainage patterns (including overland conveyance of the 100-year storm event), and natural and manmade features. Describe pre-development ground coverage, soil type, and physical properties, such as hydrologic soil group and infiltration. Pre-settlement ground coverage should be assumed as open prairie in any non-wooded area.
 - e. Describe post-developed land use and proposed grading, change in percent of impervious area, and change in drainage patterns. If an existing drainage way is filled, the runoff otherwise stored by the drainage way will be mitigated with stormwater detention, in addition to the post-development runoff.

f. Describe contributing off-site drainage patterns, land use, and stormwater conveyance. Identify undeveloped contributing areas with development potential and list assumptions about future development runoff contributed to the site.

g. Discussion of soils located on site and their suitability for infiltration. If infiltration meets the exclusion criteria, state why.

h. Describe the features that will be installed to control rate of runoff, pollutants in stormwater, and infiltration in the post-development condition.

i. Describe the Maintenance and Repair Plan for all stormwater BMPs including detailed maintenance and repair procedures to ensure their continued efficient function. These plans will identify the parts or components of a stormwater BMP that need to be maintained and the equipment and skills or training necessary.

j. Indicate what permits have been applied for and received, including but not limited to IDNR Notice of Intent, flood permit for sites affecting FEMA FIRM Zone A or Zone AE, ACOE Section 401 and/or 404 permits for work in waterways or wetlands.

2. Pre-settlement and pre-development runoff analysis, including:

a. Describe overall watershed area and relationship between other watersheds or sub-areas. Include a pre-settlement/pre-development watershed map in the report appendix.

b. The typical method used to predict runoff and peak discharge is the NRCS TR-55 method. Other methods may be used only with the preapproval of the City Engineer. If other methods are used, describe the method and provide documentation of correspondence with City Engineer regarding the method.

c. Describe method used to calculate the time of concentration. Describe runoff paths and travel times through sub-areas. Show and label the runoff paths on the pre-settlement/pre-development watershed map. Pre-settlement runoff paths should be assumed to match pre-development with respect to location and slope.

d. List runoff coefficients or curve numbers applied to the drainage areas. The RCNs listed in Table 3a shall be used in all hydrologic calculations for pre-settlement conditions required for determining Q_p limits (2-, 10-, and 25-year events). These RCNs have been selected with the intent to mimic hydrologic conditions that existed in Iowa prior to settlement and farming. The RCNs listed in Table 3b shall be used in all hydrologic calculations for pre-development conditions required for determining Q_f limits (100-year event). These RCNs have been selected with the intent to reflect hydrologic conditions that exist after settlement and farming. If a geotechnical study of the site was used to determine HSG, provide boring logs and locations in the appendix of the report. If a soil survey was used to determine HSG, cite it in the references.

Table 3a: RCNs for Projects in the City of Peosta
(Pre-settlement Conditions, 2- thru 25-year events)

Cover Type	Curve Numbers for Hydrologic Soil Group			
	A	B	C	D
Non-wooded Areas ¹	30	58	71	78
Wooded Areas ²	30	55	70	77

i. RCNs are equivalent to the TR-55 listed values for meadow in good condition with the intent to mimic pre-settlement conditions. Apply to any pre-development condition area which is not wooded.

ii. RCNs are equivalent to the TR-55 listed values for woods in good condition.

Table 3b: RCNs for Projects in the City of Peosta
(Pre-development 50-year and 100-year events and all Post-development storm events)

Cover Type	Curve Numbers for Hydrologic Soil Group			
	A	B	C	D
Continuous Cropped Agricultural Use ¹	55	69	78	82
Continuous Mature Wooded Area ²	30	55	70	77
Continuous Meadow Area ³	30	58	71	78
Lawn and Pasture Areas ⁴	39	61	74	80
Impervious Area ⁵	98	98	98	98

i. RCNs are equivalent to mid-range TR-55 listed values for row crops and legume crops (excluding crops mown for hay) where conservation practices are used.

ii. RCNs are equivalent to the TR-55 listed values for woods in good condition.

iii. RCNs are equivalent to the TR-55 listed values for meadow (ungrazed and unmowed) in good condition.

iv. Areas include residential lawns, golf courses, cemeteries, grazed or mowed farm pasture, and other areas with short grass.

v. Areas include roofs, sidewalks, paved streets and roads (excluding right-of-way), curbs, paved parking lots and driveways.

e. The typical precipitation model and rainfall duration used for the design storm is the NRCS Type II 24-hour distribution. Total 24-hour rainfall amounts for given frequency shall reflect data from NOAA Atlas 14, Volume 8 as displayed in Table 4. Other methods (such as a user-defined model based on collected precipitation data) or durations (such as a critical duration analysis) may be used only with the preapproval of the City Engineer. If other methods are used, describe the method and provide documentation of correspondence with Engineer regarding the method.

Table 4: City of Peosta, Dubuque County
24-hour Rainfall Depth for Various Storm Events

Return Period	Rainfall Depth (in)
1-yr	2.66
2-yr	3.02
5-yr	3.72
10-yr	4.41
25-yr	5.50
50-yr	6.47
100-yr	7.55

f. Provide summary table(s) of model results including drainage area, time of concentration, frequency, peak discharge, and accumulative routed flows at critical points within the development (if any) and at development boundaries. At a minimum, flow rates for pre-settlement 2-, 10-, and 25-year storms and pre-development 100-year storm must be provided.

3. Post-Development runoff analysis, including:

a. Describe overall watershed area and sub-areas. Discuss if the post development drainage area differs from the pre-development drainage area. Include a post development watershed map in the report appendix.

b. The method used to predict runoff and peak discharge will be the same as used in the pre-development analysis, except for variables changed to account for the developed conditions.

c. The time of concentration method used will be the same as used in the pre-development analysis. Describe change in times of concentration due to development (i.e. change in drainage patterns). Show and label the runoff paths on the post-development watershed map.

d. List runoff coefficients or curve numbers applied to the drainage areas. The RCNs listed in Table 3b (above) shall be used in all hydrologic calculations for post-development conditions. Include an analysis of the proposed increase in impervious area and describe the change in runoff volume due to development. Directly connected impervious area (roads, front of houses, etc.) shall be separated out from pervious area and unconnected impervious areas (backs of houses, etc.) in the determination of a weighted RCN. Provide a summary of the total directly connected impervious area and the total unconnected impervious area for each sub-watershed/catchment.

e. The precipitation model storm event, total rainfall, and total storm duration will be the same as used for the pre-development model.

f. Provide summary table(s) of model results including drainage area, time of concentration, frequency, peak discharge, and accumulative routed flows at critical points within the development (if any) and at development boundaries. At a minimum, flow rates for 1-, 2-, 10-, 25-, and 100-year storms must be provided.

g. Summary of post-development runoff:

i. Description of BMP including water quality practices (methodology).

ii. Provide table(s) including drainage area, time of concentration, frequency, duration, and peak discharge. Summarize in narrative form the change in hydrologic conditions due to the development.

iii. Post-developed discharge should take into account any upstream offsite detention basins and undeveloped offsite areas assumed to be developed in the future with stormwater detention.

4. Rate control structure and conveyance system analysis, including:

a. Describe any detention basin locations by discussing existing topography and relationship to basin grading. Determine if rock deposits will affect construction and if a high water table precludes basin storage. Floodplain locations should be avoided.

b. The detention basin size in final design should be based upon actual hydrograph routing for the design storms controlled by the basin. Note the TR-55 approximate method of sizing detention basins (TR-55 Chapter 6) may result in storage errors of 25%, and should not be used in final design.

c. The top of any dike used in forming a detention basin should be a minimum of one foot above the 100-year storage elevation. Large detention basin design may require IDNR approval (See Iowa Administrative Code Title V, Chapter 70).

d. Discuss the basin outlet design in terms of performance during low and high flows and downstream impact. Note that a single-stage outlet (i.e. one culvert pipe) may not be appropriate because of its inability to detain post-developed runoff from storms less than the 10-year interval. A more desirable outlet has two or more stages (such as a riser structure with an orifice) which will serve to detain runoff for low- flow events of a 2-year storm, and pass greater storm events via the riser outlet.

e. Design the spillway for high flows using weir and/or spillway design methods. The steady-state open channel flow equation is not intended for use in spillway design.

f. Describe methods to protect the basin during overtopping flow.

g. Describe channel protection/lining and velocity dissipation at outlets.

h. Provide a summary table of the respective volumes and discharge rates for the project area after routing through rate control structures, and a comparison to the calculated allowable release rate from the site for the 2-, 10-, 25-, and 100-yr storm events.

5. A site map (or maps) including the following items:

a. A preliminary plat (with pre-and post-development topography) may be used to show the proposed development. Minimum scale of 1 inch = 500 feet or larger to ensure legibility should be used for all drainage areas. (Drawings no larger than 24 inches by 36 inches should be inserted in 8-1/2 inch by 11-inch sleeves in the back of the bound report). The plat is to show street layout and/or building location on a contour interval not to exceed 2 feet. The map must show on- and off- site conditions. Label flow patterns used to determine times of concentration. Drainage plans (preliminary plat or topography map) must extend a minimum of 250 feet from the edge of the proposed preliminary plat boundary, or a distance specified by Jurisdiction. The limits of swale and ditch easements should be established based upon the required design frequency. This includes 100-year overflow easements from stormwater controlled structures.

b. Identify areas of the site located within the floodway or floodplain boundaries as delineated on flood insurance rate maps, or as determined by other engineering analysis. Identify wetland areas on the site, as delineated by the National Wetlands Inventory, or as determined by a specific wetland study.

c. Soil map or geotechnical information.

d. Location and elevations of Jurisdictional benchmarks. All elevations should be on Jurisdictional datum.

e. Proposed property lines (if known).

f. Existing drainage facilities and structures, including existing roadside ditches, drainage ways, gutter flow directions, culverts, etc. All pertinent information such as size, shape, slope location, 100-year flood elevation, and floodway fringe line (where applicable), should also be included to facilitate review and approval of drainage plans.

g. Proposed drainage facilities and structures, including storm sewers and open drainage ways, right-of-way and easement width requirements, 100-year overland flow easement, proposed inlets, manholes, culverts, erosion and sediment control, water quality (pollution) control, infiltration basins, energy dissipation devices, and other appurtenances.

h. Cross sections and profiles of road ditches, designed to carry storm flows and to ensure non-erosive velocities.

i. Proposed outfall point(s) for runoff from the study area.

j. The 100-year flood elevation and major storm floodway fringe (where applicable) are to be shown on the plans, report drawings, and plats (preliminary and final). In addition, the report should demonstrate that the stormwater system has adequate capacity to handle a 100-year storm event, or provisions are made for overland flow.

k. Show the critical minimum lowest opening elevation of buildings for protection from major and minor storm runoff.

6. Supporting computations. Computations may be done by hand or with computer software (P8, WinSLAMM or other DNR approved models). If software was used, attach computer-generated reports and output and underline and label results, such as the peak discharge. Provided computations must include:

a. Runoff coefficients and curve numbers for each sub-watershed

b. Total impervious area (ft² and % of total drainage area)

c. Times of concentration for each sub-watershed

d. Storm sewer design summaries

e. Peak runoff calculations – Show results in tabular format and pre- and post-developed hydrographs

f. Detention basin design – Show tabular stage-storage-discharge results and inflow/outflow hydrographs. Include both extended- detention and rate control results.

g. Water Quality Volume calculations

h. Infiltration basin design calculations

i. Open channel flow calculations. For ditches that drain areas over two square miles in urban areas and over ten square miles in rural areas, design may require the Iowa Department of Natural Resources (IDNR) approval (See Iowa Administrative Code Chapter 567.71).

j. Culvert design calculations or nomographs. For culverts that drain areas over two square miles in urban areas and over ten square miles in rural areas, design may require the Iowa Department of Natural Resources (IDNR) approval (See Iowa Administrative Code Chapter 567.71).

k. Erosion protection design.

7. Performance Guarantee. Before the recording of final plat and issuance of a permit, or as condition of approval of final plat and issuance of a permit, the Commission and City shall require the following guarantees to insure that the stormwater BMPs are installed by the permit holder as required by the approved stormwater management final plan.

a. The amount of the performance guarantee shall be the total estimated construction cost of the stormwater BMPs approved under the permit, plus 10%. The performance guarantee shall be posted by the subdivider or subdivider's contractor under Section 166.15(10) with the City Council guaranteeing the improvements will be constructed and shall remain in full force and effect until final acceptance of the improvements by the City. 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 Council Resolution.

b. The performance guarantee shall contain forfeiture provisions for failure to complete work specified in the stormwater management final plan.

c. The performance guarantee shall be released in full only upon submission of "as built plans" of all stormwater BMPs specified in the stormwater management final plan and written certification by a professional engineer that the stormwater BMPs have been installed in accordance with the approved stormwater management final plan and other applicable provisions of this ordinance. City will make a final inspection of stormwater BMPs to ensure compliance with the approved stormwater management final plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance guarantee based on the completion of various development stages can be made at the discretion of City.

8. Maintenance Performance Guarantee. City shall also require the submittal of a maintenance performance guarantee prior to issuance of a permit in order to insure that the stormwater BMPs are maintained in an effective state for a minimum of two years.

6-21-11 INDEMNIFY CITY. The application form signed by the applicant for a City Stormwater Management permit shall include the following statement:

The undersigned Applicant hereby agrees to defend, indemnify and hold the City, its officers, and employees harmless from any and all claims, damages or suits of any kind arising directly or indirectly out of any act of commission or omission by the Applicant, or any employee, agent, assign, contractor or subcontractor of the Applicant, in connection with the Applicant's State NPDES General Permit No. 2 and/or City Stormwater Management Permit.

6-21-12 PERMIT ISSUANCE OR DENIAL. Upon receipt of an application for a City Stormwater Management permit, if the City finds that the application complies with this chapter, the City shall issue a City Stormwater Management permit in accordance with this chapter. If the City finds that the application fails to comply with this chapter, the City shall provide the applicant a schedule identifying wherein the application does not comply with this chapter.

6-21-13 NOTICE OF CONSTRUCTION COMMENCEMENT. The applicant must notify City in advance before the commencement of construction. Regular inspections of construction of the stormwater BMPs shall be conducted by City or City's designated representative. All inspections shall be documented and written reports prepared that contain the following information:

1. The date and location of the inspection; and
2. Whether construction is in compliance with the approved stormwater management concept plan; and
3. Variations, if any, from the approved stormwater management concept plan.

6-21-14 CONSTRUCTION VIOLATIONS. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by City.

6-21-15 AS-BUILT DRAWINGS. After construction is completed, applicants are required to submit actual "as built" drawings satisfactory to City for any stormwater BMPs located on-site. The drawings must show the final design specifications for all stormwater BMPs and must be certified by a professional engineer. A final inspection by City is required before the release of any performance securities can occur.

6-21-16 STABILIZATION REQUIREMENTS. Stabilization shall be accomplished to prevent violation of City stormwater requirements or impairment of BMPs.

6-21-17 OWNER RESPONSIBILITY. The applicant or owner of every site shall be responsible for maintaining as-built stormwater BMPs in an effective state as determined in the sole judgment of City for two years after acceptance of improvements.

6-21-18 MAINTENANCE AND REPAIR EASEMENT. Prior to the issuance of any permit for development involving any stormwater BMP, the applicant or owner of the site must execute a

maintenance and repair easement agreement that shall be binding on all subsequent owners of land served by the stormwater BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City or City's designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City stormwater requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

6-21-19 MAINTENANCE COVENANTS.

1. Maintenance of all stormwater BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by City and recorded prior to the stormwater management final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

2. City, in lieu of a maintenance covenant, may but is not required to accept dedication of any existing or future stormwater BMP to include City responsibility for maintenance and repair, provided that the maintenance and repair of such element will not impose an undue burden on other City taxpayers who enjoy little if any benefit from the BMP, the BMP meets all the requirements of this chapter, and the dedication includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

6-21-20 REQUIREMENTS FOR MAINTENANCE COVENANTS. All stormwater BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include but are not limited to removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement in a timely manner, as determined by City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater BMPs.

6-21-21 INSPECTION OF STORMWATER BMPs. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater BMPs, and evaluating the condition of stormwater BMPs.

6-21-22 RIGHT-OF-ENTRY FOR INSPECTION. Maintenance and Repair Easement: Prior to the issuance of any permit for development involving any storm water BMP, the applicant or

owner of the site must execute a maintenance and repair easement agreement that shall be binding on all subsequent owners of the land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for the periodic inspection by City or City's designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

6-21-23 RECORDS OF INSTALLATION AND MAINTENANCE AND REPAIR ACTIVITIES. Parties responsible for the operation and maintenance of stormwater BMPs shall make records of the installation permanent. Maintenance and repair records shall be retained for ten years. These records shall be made available to City during inspection of the facility and at other reasonable times upon request.

6-21-24 MUNICIPAL INFRACTION. A violation by any person of any provision of this chapter, including the commencing, constructing, causing, or permitting the commencement of any land disturbing activity without a City Stormwater Management permit as required by this chapter, constitutes a municipal infraction.

6-21-25 ABATEMENT REQUIRED. The City may order compliance with this chapter by written notice of violation to a person violating this chapter setting forth the time within which remediation or restoration must be completed and that if the person fails to complete such remediation or restoration within such time, the City shall cause such remediation or restoration work to be done and the person shall be liable for such costs.

6-21-26 STOP WORK ORDER. The City may issue an order to stop all construction activities on any property where land disturbing activity is being conducted until conditions of noncompliance with this chapter are corrected. Construction activity, other than that which is required to correct a condition of noncompliance, prior to the correction of the conditions of noncompliance, shall constitute a violation of this chapter.

6-21-27 ENFORCEMENT AND PENALTIES. The City will work with applicants for consistent enforcement of the City minimum standards. If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the stormwater BMP becomes a danger to public safety or public health, City shall notify the party responsible for maintenance of the stormwater BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the stormwater BMP in an approved manner. After proper notice, City may assess, jointly and severally, the owner(s) of the stormwater BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

6-21-28 APPEAL. The determination by the City of a violation of this chapter may be appealed by an aggrieved party to the City Council, provided written notice of appeal is received by the

City within fifteen (15) days from the date of the notice of violation. Upon hearing, the City Council may rescind, modify or affirm the notice of violation.

6-21-29 ENFORCEMENT. The City Engineer and/or Public Works Director or their representative may enter upon any property where land disturbing activity is being conducted and take any and all action necessary to abate any violation of this chapter and/or remediate or restore the property to its condition prior to the land disturbing activity. It shall be a violation of this chapter for any person to refuse to allow the City Engineer and/or City Inspector to enter upon property for such purposes.

6-21-30 COST OF ABATEMENT OF VIOLATION. Within thirty (30) days after abatement of a violation of this chapter, the owner of the property shall be notified in writing by the City of the cost of abatement, including administrative costs. The property owner may file a written protest with the City objecting to the amount of the cost of abatement within fifteen (15) days thereafter. If the cost of abatement is not paid to the City within sixty (60) days after the date of the notice, the cost of abatement shall be certified by the City in the manner of a special assessment against the property and shall constitute a lien on the property.

6-21-31 INJUNCTIVE RELIEF. The City may seek equitable relief restraining any person from any activity in violation of this chapter including compelling the performance of abatement or remediation of such violation.

(Ord. 2021-04, Passed May 25, 2021)

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 STREET GRADES - RESERVED

TITLE VII SPECIAL ORDINANCES

CHAPTER 2 VACATED STREETS, ALLEYS, AND EASEMENTS

VACATION OF LOTS

- 7-2-1 Approved Plat
- 7-2-2 Real Estate Vacated
- 7-2-3 Notice of Intent
- 7-2-4 Conveyance Approved

VACATION OF RAILROAD EASEMENT

- 7-2-5 Location of Vacated Railroad Easement

VACATION OF LOTS

7-2-1 **APPROVED PLAT.** That the plat of Lot 108 "A", Lot 110 "A", Lot 111 "A", and Lot 115 "A", each in Peosta (formerly Caledonia), Dubuque County, Iowa, bearing the date of 28th day of February, 1972, and prepared by Bartels, McMahan, LeMay, Haas and Baule Engineering Company of Dubuque, Iowa, be and the same is hereby approved and the Mayor and Town Clerk be and they are hereby authorized and directed to execute the same for an on behalf of the Town of Peosta, Dubuque County, Iowa.

7-2-2 **REAL ESTATE VACATED.** That said real estate described as: Lot 108 "A", and Lot 110 "A", Lot 111 "A" and Lot 115 "A" each in Peosta (formerly Caledonia), Dubuque County, Iowa be and the same is hereby vacated.

7-2-3 **NOTICE OF INTENT.** That the Town Clerk be and she is hereby authorized and directed to cause notice of intent to dispose of said real estate to Patrick R. McDonald and Mathilda McDonald, husband and wife, which real estate is described in the paragraph herein above.

7-2-4 **CONVEYANCE APPROVED.** That conveyance of said Lot 108 "A", Lot 110 "A", Lot 111 "A" and Lot 115 "A", each in Peosta (formerly Caledonia), Dubuque County, Iowa to Patrick R. McDonald and Mathilda McDonald, husband and wife be and the same is hereby approved upon payment of \$1.00 and upon payment of costs of publication and filing costs.

(Ord. 72-02, Passed April 3, 1972)

VACATION OF RAILROAD EASEMENT

(Ord. 01-01, Passed January 10, 2001)

(Ord. 03-04, Passed September 9, 2003)

7-2-5 **LOCATION OF VACATED RAILROAD EASEMENT.** The railroad easement between Lot 1 of West Dubuque Industrial Park No. 5 in the City of Peosta, Dubuque County, Iowa, and Lot 2 of Lot 4 of Lot 2 of Lot B of West Dubuque Industrial Park No. 2 in the City of Peosta, Dubuque County, Iowa, being the same is hereby vacated. The utility easement thereon remains in full force and effect.

TITLE VII SPECIAL ORDINANCES

CHAPTER 3 ELECTRIC FRANCHISE

7-3-1	Franchise Granted	7-3-8	Continuous Service
7-3-2	City Held Harmless	7-3-9	Franchise Fee
7-3-3	Protection and Repair of Site	7-3-10	City Exempt
7-3-4	Relocation of Existing Facilities	7-3-11	Term of Franchise
7-3-5	Meters	7-3-12	Publication Expense
7-3-6	System Capacity	7-3-13	Franchise Acceptance
7-3-7	Franchise not Exclusive	7-3-14	Ordinance May Not be Modified

An Ordinance granting to INTERSTATE POWER & LIGHT COMPANY, ("Company"), its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Peosta, Dubuque County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the City of Peosta, Dubuque County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of Peosta, Dubuque County, Iowa, to supply individuals, corporations, communities and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years and granting to said Company the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of Peosta, Dubuque County, Iowa:

7-3-1 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Peosta, Dubuque County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the said City of Peosta, Dubuque County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of Peosta, Dubuque County, Iowa, to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

7-3-2 CITY HELD HARMLESS. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

7-3-3 PROTECTION AND REPAIR OF SITE. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

7-3-4 RELOCATION OF EXISTING FACILITIES. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

7-3-5 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

7-3-6 SYSTEM CAPACITY. The system authorized by this Ordinance shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

7-3-7 FRANCHISE NOT EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

7-3-8 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

7-3-9 FRANCHISE FEE. There is hereby imposed a franchise fee of one percent (1%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

(Ord. 2016-07, Passed October 25, 2016)

7-3-10 CITY EXEMPT. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this ordinance.

7-3-11 TERM OF FRANCHISE. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

7-3-13 PUBLICATION EXPENSE. The expense of the publication of this Ordinance shall be paid by the Company.

7-3-14 FRANCHISE ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

7-3-15 ORDINANCE MAY NOT BE MODIFIED. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of Peosta with respect to the rights contained herein, and may not be superceded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City of Peosta as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of Peosta enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations.

(Ord. 2010-01, Passed February 23, 2010)

TITLE VII SPECIAL ORDINANCES

CHAPTER 4 GAS FRANCHISE

7-4-1	Franchise Granted	7-4-9	Force Majeure
7-4-2	Franchise Fees	7-4-10	Hold Harmless
7-4-3	Term	7-4-11	Successors and Assigns
7-4-4	Governing Rules and Regulations	7-4-12	No Third Party Beneficiaries
7-4-5	Construction and Maintenance of Grantee's Facilities	7-4-13	Severability
7-4-6	Extension of Grantee's Facilities	7-4-14	Non Waiver
7-4-7	Relocation of Grantee's Facilities	7-4-15	Repeal Conflicting Ordinances
7-4-8	Confidential Information	7-4-16	Effect and Interpretation of Ordinance
		7-4-17	Effective Date and Acceptance

7-4-1 FRANCHISE GRANTED. The city of Peosta, Iowa (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Aquila, Inc., d/b/a Aquila Networks, a Delaware corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

7-4-2 FRANCHISE FEES. Grantor may, during the term of this franchise, in its discretion after public hearing, but not more than once a year, and upon an majority vote of the members of the Grantor's City Council, impose a franchise fee on customers located within the corporate city limits of Grantor in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by Grantor must be based on one of the following methods: 1) Percentage of Gross Receipts of regulated sales or transportation revenues collected within the City, 2) Volumetric fee based on the delivery of energy within Grantor's corporate city limits, or 3) Flat Fee collected from Customers on a nondiscriminatory basis who are located within the City; provided however, that no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. Grantor may request that Grantee propose ordinance language that will apply the permitted franchise fee.

7-4-3 TERM. The rights and privileges granted hereunder shall remain in effect for a period of twenty five (25) years from the effective date of this Ordinance.

7-4-4 GOVERNING RULES AND REGULATIONS. The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken, so as to allow Grantee to be made economically whole. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

7-4-5 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done at the cost and expense of Grantee only where such repairs and replacements are necessary due to Grantee accessing its facilities, in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee a sufficient length of time in advance of the

actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

7-4-6 EXTENSION OF GRANTEE’S FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

7-4-7 RELOCATION OF GRANTEE’S FACILITIES. If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference and is not merely for the convenience of the Grantor. If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and is not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. Grantor shall also provide a reasonable alternative location for Grantee’s facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it receives the reasonable cost of relocating the same and Grantor provides a reasonable alternative location for such facilities.

Any person or corporation desiring to move a building or other structure along, or to make any unusual use of, any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and pay a sum sufficient to cover the expense of moving Grantee’s facilities and equipment in such location, and any damages incident thereto.

7-4-8 CONFIDENTIAL INFORMATION . Grantor acknowledges that certain information it might request from Grantee pursuant to this Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

7-4-9 FORCE MAJEURE. It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides,

lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

7-4-10 HOLD HARMLESS. Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or appliances; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

7-4-11 SUCCESSORS AND ASSIGNS. All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

7-4-12 NO THIRD PARTY BENEFICIARIES. This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

7-4-13 SEVERABILITY. If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

7-4-14 NON WAIVER. Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

7-14-15 REPEAL CONFLICTING ORDINANCES. This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed.

7-14-15 EFFECT AND INTERPRETATION OF ORDINANCE. The captions that precede each section of this Ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

7-14-16 EFFECTIVE DATE AND ACCEPTANCE. This Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the city council, and filing with the Clerk of the city of Peosta, Iowa. The Clerk of the city of Peosta, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

(Ord. 2007-09, Passed December 11, 2007)

TITLE VII SPECIAL ORDINANCES

CHAPTER 5 TELECOMMUNICATIONS AND ELECTRIC FRANCHISE

7-5-1	Franchise Granted	7-5-12	Refunds
7-5-2	City Held Harmless	7-5-13	Company Held Harmless
7-5-3	Protection and Repair of Site	7-5-14	Annexation and Other Changes
7-5-4	Relocation of Existing Facilities	7-5-15	Additional Charges
7-5-5	Meters	7-5-16	Collected Franchise Fees
7-5-6	System Capacity	7-5-17	Other Payments and Charges
7-5-7	Franchise Not Exclusive	7-5-18	Term
7-5-8	Continuous Service	7-5-19	Publication Expense
7-5-9	Franchise Fee	7-5-20	Acceptance
7-5-10	Billing	7-5-21	Agreement Summary
7-5-11	Franchise Fee and Local Option Sales Tax		

7-5-1 FRANCHISE GRANTED. There is hereby granted to MAQUOKETA VALLEY RURAL ELECTRIC COOPERATIVE, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Peosta, Dubuque County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for telecommunications, electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for telecommunications and/or the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the said City of Peosta, Dubuque County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, telecommunications and/or electric lines through the said City of Peosta, Dubuque County, Iowa, to supply individuals, corporations, communities, and municipalities both inside and outside of said City with telecommunications, electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

7-5-2 CITY HELD HARMLESS. The poles, wires, conduits and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said systems.

7-5-3 PROTECTION AND REPAIR OF SITE. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

7-5-4 RELOCATION OF EXISTING FACILITIES. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

7-5-5 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wires to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board or under terms established by its Board of Directors.

7-5-6 SYSTEM CAPACITY. The systems authorized by this Ordinance shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

7-5-7 FRANCHISE NOT EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

7-5-8 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

7-5-9 FRANCHISE FEE. In its monthly billing Company shall include a franchise fee of 1% on the gross receipts from the sale of electricity and telecommunications services for customers within the limits of the City of Peosta, Dubuque County, Iowa. The Company shall commence collecting the franchise fee three months from the date the acceptance of this Ordinance by the Company is filed with the City Clerk. The Grantor shall give the Company a minimum 3-month notice prior to the request to implement any increase in the franchise fee allowed under this ordinance. Grantor shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law. Collection of the franchise fee shall cease at the earlier of The City's repeal of the franchise fee or the end of the Ordinance term.

7-5-10 BILLING. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2(t) and 423B.5. The Company shall not grant exemptions or refunds of the franchise fee beyond that granted by the Code of Iowa. If at any time the Iowa Utilities Board

or another authority have proper jurisdiction, prohibits the collection or payment of a franchise fee, the Company shall be relieved of its obligation to collect and pay to the City the franchise fee.

7-5-11 FRANCHISE FEE AND LOCAL OPTION SALES TAX. City agrees not to increase the franchise fee beyond the same percentage of the local options tax it replaces.

7-5-12 REFUNDS. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected and remitted to City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying members or calculating any franchise fee refunds for groups of or individual members, the City shall reimburse the Company for the expense reasonably incurred.

7-5-13 COMPANY HELD HARMLESS. City agrees that Company's obligations related to the franchise fee are limited to those obligations set forth in Sections 7-5-9, 7-5-10, and 7-5-16 and herein. City further agrees to bear all costs (including attorney fees), and to defend, indemnify and hold Company harmless from any and all liability, claims or causes of action associated with disputes related to the billing and/ or collection of the franchise fee, provided that the City shall not be obligated to bear such costs or to defend, indemnify and hold Company harmless if such disputes arise from claims of inaccurate billing by the Company.

7-5-14 ANNEXATION AND OTHER CHANGES. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the limits of said City, the City Clerk shall provide written notification to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the limits of the City, commencing as soon as reasonably possible, but no later than, six (6) months from receipt of the written notice.

7-5-15 ADDITIONAL CHARGES. The sum of such additional charges for the franchise fee related to Section 7-5-9 above shall be shown separately on the utility bill to each customer.

7-5-16 COLLECTED FRANCHISE FEES. The Company shall remit collected franchise fees to the City on a monthly basis, within thirty (30) days of collection.

7-5-17 OTHER PAYMENTS AND CHARGES. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and all said facilities outlined in Section 7-5-1 shall be exempt from any special tax, assessment, license or rental charge during the entire term of this ordinance.

7-5-18 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

7-5-19 PUBLICATION EXPENSE. The expense of the publication of this Ordinance shall be paid by the City.

7-5-20 ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within sixty (60) days from passage of this Ordinance and notice of same being sent to the Company.

7-5-21 AGREEMENT SUMMARY. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of Peosta with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City of Peosta as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of Peosta enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations.

(Ordinance 2017-02, Passed April 25, 2017)

TITLE VII SPECIAL ORDINANCES
CHAPTER 6 CABLE FRANCHISE - RESERVED

TITLE VII SPECIAL ORDINANCES

CHAPTER 7 FRANCHISE FEE ESTABLISHED

7-7-1	Purpose	7-7-5	Map
7-7-2	Exempt from Other Fees	7-7-6	Copies of Annexation Ordinances
7-7-3	Payments	7-7-7	Payment Errors
7-7-4	Franchise Fee		

7-7-1 **PURPOSE.** The City of Peosta, Iowa, (hereinafter referred to as the “Municipality”) hereby establishes a franchise fee on every natural gas or electric company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas or electric plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas or electric (hereinafter referred to, collectively, as “Energy Providers,” each, individually, an “Energy Provider”). Energy Providers shall collect from their customers located within the corporate limits of the Municipality as depicted on the Map (as defined below) including the City of Peosta and pay to the City an amount equal to one percent (1%) of gross receipts Energy Providers derive from the sale, distribution or transportation of natural gas or electric delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas or electric, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

7-7-2 **EXEMPT FROM OTHER FEES.** The amount paid by Energy Providers shall be in lieu of, and Energy Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Energy Providers in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Energy Providers’ obligations under this Ordinance.

7-7-3 **PAYMENTS.** Energy Providers shall report and pay any amount payable under this Ordinance on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City of Peosta, Iowa, to an Energy Provider.

7-7-4 **FRANCHISE FEE.** Energy Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Energy Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of City, Energy Providers may reduce the franchise fee payable for natural gas or

electric delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

7-7-5 MAP. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Energy Providers with a map of its corporate limits (the “Map”). The Map shall be of sufficient detail to assist Energy Providers in determining whether their customers reside within the Municipality’s corporate limits. The Map along with Energy Provider’s Geographic Information System (“GIS”) mapping information shall serve as the sole basis for determining Energy Provider’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Municipality’s corporate limits are changed by annexation or otherwise, it shall be the Municipality’s sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Providers. An Energy Provider’s obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider’s receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Energy Provider’s receipt from the Municipality of an updated Map including such annexed area as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

7-7-6 COPIES OF ANNEXATION ORDINANCES. The City shall provide copies of annexation ordinances to Energy Providers on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the city as set forth in Section 7-7-4 above.

7-7-7 PAYMENT ERRORS. The Municipality shall have access to and the right to examine, during normal business hours, Energy Provider’s books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Energy Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

(Ordinance 2016-06, Passed October 25, 2016)