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TITLE 1 - ADMINISTRATIVE

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 1 - CITY CODE

- 1.01 TITLE. These ordinances will be known and cited as the Municipal Code of Orange City, Iowa.
- 1.02 DEFINITIONS. Terms used within this Municipal Code shall have the meanings defined below, unless specifically defined otherwise.
1. "Administrator" means the City Administrator of Orange City, Iowa.
 2. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
 3. "City" means the City of Orange City, Iowa.
 4. "City Code" or "Municipal Code" means the current Municipal Code of the City of Orange City, Iowa.
 5. "Clerk" means the City Clerk of Orange City, Iowa.
 6. "Code" means the specific chapter in which a specific subject is covered and bears a descriptive title word.
 7. "Code of Iowa" refers to the codified body of Iowa statutes, as amended, in effect at the time of the adoption of this Code.
 8. "Council" means the City Council of Orange City, Iowa
 9. "County" means Sioux County, Iowa.
 10. "Measure" means an ordinance, resolution, amendment or motion.
 11. "Occupant, Tenant" applied to a building or land, shall include any person who inhabits the
 12. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity and includes a trustee, receiver, assignee, or similar representative but does not include a governmental body.
 13. "Property" shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
 14. "Property Owner" means a person owning private property in the city as shown by the county auditor's plats of the city.

15. "Public Place" includes but is not restricted to any city-owned space or property, either open or enclosed.
16. "Public Property" means any and all property owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
17. "Sidewalk" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
18. "State" means the State of Iowa.
19. "Statutes, Laws" means the latest edition of the Code of Iowa as amended
20. "Street" means and includes any public way, highway, street, avenue, boulevard or other public thoroughfare, and includes the entire width between property lines.
21. "Treasurer" means the City Treasurer of Orange City, Iowa.

1.03 RULES OF CONSTRUCTION. In the construction of the City Code, the following rules shall be observed:

1. Tense: words used in the present tense include the future.
2. May: grants a power.
3. Must: states a requirement.
4. Shall or Will: imposes a duty.
5. Gender: masculine gender shall include the feminine and neuter genders.
6. Interpretation: all general provisions.
7. The singular includes the plural, and the plural includes the singular.
8. The words "Or" may be read "And" and "And" may be read "Or."

1.04 AMENDMENTS. All ordinances which amend, repeal or affect the Municipal Code will include proper reference to title, division, chapter, article, section, and subsection to maintain an orderly classification of ordinances of the City. Any amendment of an ordinance shall include in full the language of the section, subsection, or paragraph as amended.

(Code of Iowa, Sec. 380.2)

1.05 ALTERING CODE. It is unlawful for any person to change or amend by additions or deletions any part or portion of the Municipal Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the Municipal Code in any manner which will cause the law of the City to be misrepresented.

- 1.06 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine. The criminal penalty surcharge required by Code of Iowa section 911.1 shall be added to a city fine and is not a part of the city's penalty.

(Code of Iowa, Sec. 364.3(2) and 903.1(1a))

These penalties shall apply to every section of this code as if this section were set out in every other section of this code.

- 1.07 SEVERABILITY. If any section, provision, or part of the Municipal Code is judged invalid or unconstitutional, such judgment will not affect the validity of the Municipal Code as a whole or any section, provision, or part not judged invalid or unconstitutional.
- 1.08 CATCH-LINES. The headlines of the several Sections are intended as mere catchwords to indicate the contents of the Section and shall not be deemed or taken to be titles of such Sections, nor as any part of the Second, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catch-lines, are amended or re-enact.
- 1.09 SEPARATE OFFENSE. If a violation of this code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day.
- 1.10 SINGLE OFFENSE. In cases where action or inaction is made punishable by more than one provision of this code, the city may select the provision or provisions of this code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1.09 of this chapter.
- 1.11 LIABILITY OF OFFICERS. No provision of this code designating the duties of any officer or employee of the city shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the council to impose such a penalty is specifically and clearly expressed in this code.
- 1.12 LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES. A violation of this code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a municipal infraction charge, or other civil remedies provided in other sections of this code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies.
- 1.13 WARRANTS. If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the Code of Iowa, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care or control of any dwelling unit, rooming

unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

- 1.14 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.
- 1.15 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.
- 1.16 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.
- 1.17 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. 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 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)

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 2 - BOUNDARIES

2.01 CORPORATE LIMITS. The corporate limits of the City of Orange City are described as follows:

The Corporate limits of the City are hereby declared to be such as have been heretofore or hereafter legally established by law or the acts of the City.

Said territory is and the same is hereby declared to be "The City of Orange City." The inhabitants of said territory be and do hereby constitute a body politic and corporate, possessed of all the powers, immunities, and rights of a City existing under and by virtue of the laws of Iowa. The force and authority of all ordinances, and the jurisdiction of the officers of said City shall be co-extensive therewith in all cases, and in special cases to such extent as may be provided by the general laws of the State.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 3 - CITY HOME RULE CHARTER

- 3.01 PURPOSE. The purpose of this article is to provide for a Charter incorporating the form of government existing in the City of Orange City, Iowa.
- 3.02 CHARTER. This article may be referred to as the Charter of the City of Orange City, Iowa.
- 3.03 FORM OF GOVERNMENT. The City of Orange City, Iowa, shall have the mayor-council with appointed administrator form of government.
(Code of Iowa, Sec. 372.4)
- 3.04 POWERS AND DUTIES. The Council, the Mayor, and Administrator, and other City officers have such powers and perform such duties as authorized or required by State law and by the ordinances, resolutions, rules, and regulations of the City of Orange City, Iowa.
- 3.05 NUMBER AND TERM OF COUNCIL. The council consists of five (5) council members elected at large for terms of four (4) years, so staggered that one-half (1/2) of the members, as nearly as may be, are elected at each regular Municipal election.
(Code of Iowa, Sec. 376.2)
- 3.06 TERM OF MAYOR. The Mayor is elected for a term of two (2) years.
(Code of Iowa, 376.2)
- 3.07 COPIES ON FILE. The Clerk shall keep an official copy of this Charter on file with the official records of the City Clerk, and make available copies at the Clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 4 - CORPORATE SEAL

- 4.01 SEAL AND CUSTODY. The council shall provide a seal, in the center of which shall be the words "SEAL" and around the margin the words "THE INCORPORATED CITY OF ORANGE CITY, IOWA", and the same is hereby declared to be the corporate seal. The Clerk shall keep the corporate seal in his or her charge.
- 4.02 USE. The corporate seal shall be attached to all transcripts, orders, and certificates which it may be necessary or proper to authenticate.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 5 - VOTING PRECINCTS

- 5.01 PURPOSE. The purpose of this article is to divide the City of Orange City into voting precincts of no more than 3,500 persons in each precinct, in conformity with the provisions and requirements of Sections 49.3 and 49.5 of the 2001 Code of Iowa as amended.
- 5.02 DIVISION INTO PRECINCTS. The City of Orange City is divided into two (2) voting precincts.
- 5.03 DELINEATION AND DESIGNATION OF PRECINCT.

Precinct One (1) and Precinct Two (2) of the City of Orange City, Iowa, shall be delineated by a line described as follows:

Beginning at the western edge of the City limits of Orange City, Iowa, on the approximate centerline of the Sioux County, Iowa street designated as 450th Street; thence easterly along the centerline of 450th Street, also known as Eighth Street SW within the City limits of Orange City, Iowa, to the intersection of Colorado Avenue SW; thence northerly along the approximate centerline of Colorado Avenue SW to the intersection of 6th Street SW; thence easterly along the approximate centerline of 6th Street SW to the intersection of Central Avenue South; thence continuing easterly along the approximate centerline of 6th Street SE to the intersection of Albany Avenue SE; thence northerly along the approximate centerline of Albany Avenue SE to the intersection of 1st Street East; thence continuing northerly along the approximate centerline of Albany Avenue NE to the intersection of the centerline of 22nd Street NE, also known as 430th Street by Sioux County, Iowa, which is the North City limits of Orange City, Iowa.

That portion of the City of Orange City, Iowa, lying north and west of said line shall be designated as Precinct One (1). Precinct One (1) shall also include that portion of the City of Orange City, Iowa, known as census blocks number 2001 and 2003.

The portion of the City of Orange City, Iowa, lying south and east of said line, with the exception of census blocks number 2001 and 2003, shall be designated as Precinct Two (2).

(Editor's Notes: Ordinance 763 approved by Council on August 29, 2011 amended Section 5.03)

- 5.04 ELECTIONS AND TERMS OF CITY COUNCIL. The City Council shall consist of five (5) members, all of said members to be elected to said office by the entire electorate, and terms of office shall be four (4) years.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 6 - ELECTIONS

- 6.01 MUNICIPAL ELECTION. The regular municipal election shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.
(Code of Iowa, Sec. 376.1)
- 6.02 TERMS. Terms of elected officers begin at noon on the first day in January which is not a Sunday or a legal holiday following their election.
(Code of Iowa, Sec. 376.2)
- 6.03 NOMINATIONS. Candidates for elective city offices must be nominated as provided in Sections 376.4 to 376.9 of the Code of Iowa.
(Code of Iowa, Sec. 376.3)
- 6.04 PERSONS ELECTED IN CITY ELECTIONS. The City of Orange City shall follow the run-off election procedure as provided in Section 376.8 of the Code of Iowa.
(Code of Iowa, Sec. 376.8)

In a regular city election held for a city where the council has chosen a runoff election in lieu of primary, candidates are elected as provided by subsection 1 above, except that no candidate is elected who fails to receive a majority of the votes cast for the office in question. In the case of at large elections to a multi-member body, a majority is one vote more than half the quotient found by dividing the total number of votes cast for all candidates for that body by the number of positions to be filled. In calculating the number of votes necessary to constitute a majority, fractions shall be rounded up to the next higher whole number.

(Code of Iowa, Sec, 376.8(2))

- 6.05 TIE VOTE. In case of a tie vote resulting in failure of one candidate to receive a majority vote, the tie shall be determined by lot by the Board of Canvassers.
(Code of Iowa, Sec. 43.75)
- 6.06 CONTEST. A nomination or election to an office may be contested as provided in the Code of Iowa, Chapter 62, except the Statement of Intent to Contest must be filed with the City Clerk within ten (10) days after the nomination or election. At the trial of a nomination or election, the Mayor is presiding officer except when the Mayor's nomination or election is contested, in which case the council shall elect one of its members to serve as presiding officer.
(Code of Iowa, Sec. 376.10)
- 6.07 OATHS. Each officer, elective, or appointive, before entering upon his or her duties, shall qualify by taking the prescribed oath and giving a bond when required before noon of the second secular day in January of the first year of the term of which such officers was elected or as provided in Code of Iowa, Sections 63.3 and 63.4.
(Code of Iowa, Sec. 63.1)

1. PRESCRIBED OATH: I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Orange City, Iowa, as now or hereinafter required by law.

(Code of Iowa, Sec. 63.10)

2. OFFICERS EMPOWERED TO ADMINISTER OATHS: The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

A. Mayor,

B. Clerk,

C. Members of all boards, commissions, or bodies created by law.

(Code of Iowa, Sec. 63A.2 (2 & 4))

6.08 SURETY BONDS. The following shall apply to surety bonds of municipal officers:

1. CONDITIONS. All city officers and employees, except as otherwise provided, shall be bonded under a blanket bond in accordance with the conditions stated in the Code of Iowa.

(Code of Iowa, Sec. 64.2)

2. BOND NOT REQUIRED. Bonds shall not be required of council members, however a bond shall be required of the Mayor Pro-Tempore.

(Code of Iowa, Sec. 64.1)

3. POSITION SURETY BOND. The Council shall have the power to purchase a position surety bond running to the Municipal Corporation and covering all Municipal officers and members except as hereinafter provided for the purpose of indemnifying the Municipal Corporation against any loss occasioned through embezzlement of Municipal funds by any officer or employee.

4. BOND OF CLERK. The bond of the Clerk shall be One Hundred seventy-five Thousand Dollars (\$175,000.00) and the Clerk shall be included in the above blanket position surety bond.

5. BOND OF TREASURER. The Bond of the Treasurer shall be in the amount of One Hundred seventy-five Thousand Dollars (\$175,000.00) and the Treasurer shall be included in the above blanket position surety bond.

6. BOND OF LIBRARY BOARD. The bond of each member of the Library Board shall be One Thousand Dollars (\$1,000.00) and said bond shall not be included in the above position surety.

7. BOND OF THE BOARD OF TRUSTEES, MUNICIPAL HOSPITAL. The bond of each member of the Board of Trustees of the Municipal Hospital shall be One Thousand Dollars (\$1,000.00) and said bond shall not be included in the above position surety

8. BOND OF MAYOR PRO-TEM. The bond of the Mayor Pro-Tem shall be Five Hundred Dollars (\$500.00).
 9. BOND OF MAYOR. The bond of the Mayor shall be Five Hundred Dollars (\$500.00)
 10. BONDS OF OTHER OFFICERS. Bonds of other officers where not fixed by ordinance shall be in such amount as the Council shall fix by resolution providing that any officer whose election or appointment is provided by law shall have the amount fixed by ordinance.
- 6.09 FILING, RECORDING BONDS. All duly executed Bonds shall be filed with the Clerk.
- 6.10 REFUSAL TO FURNISH BOND. On the failure, refusal, or neglect of any officer mentioned to subscribe to his or her oath of office and file his or her bond, if bond is required of the officer, at or before the first regular meeting of the Council which comes at least ten (10) days after the said person shall have been notified of his or her election to office, the Council may declare said office vacant and proceed as in other cases of vacancy.
- 6.11 UNAVOIDABLE CASUALTY. When on account of sickness, inclement weather, or unavoidable absence or casualty an officer has been prevented from qualifying within the prescribed time, the officer may do so within ten days after that fixed time.

CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 7 - OFFICERS AND EMPLOYEES

- 7.01 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council, unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13(4))
- 7.02 OFFICERS TO BE APPOINTED. The following appointments shall be made:
1. ADMINISTRATOR/TREASURER. The council shall appoint a city administrator/treasurer to perform duties prescribed by State or City law.
(Code of Iowa, Sec. 372.13(3))
 2. CITY CLERK. The council shall appoint a City Clerk to perform the duties as prescribed by State or City Laws.
 3. POLICE CHIEF. The Mayor shall appoint the Police Chief.
(Code of Iowa, Sec. 372.4)
 4. FIRE CHIEF. The Mayor shall appoint the Fire Chief.
 5. MAYOR PRO-TEM. The Mayor shall appoint a council member as Mayor Pro-Tem.
(Code of Iowa, Sec. 372.4)
 6. OTHER OFFICERS AND EMPLOYEES. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.
(Code of Iowa, Sec. 372.13(4) & 372.4)
 7. CITY ATTORNEY. The council shall appoint a City Attorney to perform as prescribed by State or City law.
- 7.03 BOOKS AND RECORDS. The public has the right, upon request, to examine, copy, or publish all books and records required to be kept by law or ordinance, unless the records are required to be kept confidential or this right is limited by other provisions in the Code of Iowa.
(Code of Iowa, Sec. 22.7)
- 7.04 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in his or her possession pertaining to his or her office.

- 7.05 CONFLICT OF INTEREST. A city officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for his or her city, unless expressly permitted by law. A contract entered into in violation of this section is void.
(Code of Iowa, Sec. 362.6 & 362.6)
- 7.06 RESIGNATIONS. Resignations may be made by all council members and officers to the Clerk or Mayor.
(Code of Iowa, Sec. 69.4(5))
- 7.07 NON-ELIGIBILITY FOR REAPPOINTMENT. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected if, during that time, the compensation for the office has been increased.
(Code of Iowa, Sec. 372.13(9))
- 7.08 VACANCIES. A vacancy in an elective office during a term of office shall be filled by the council within forty (40) days after the vacancy occurs, or as otherwise provided by law. The Council may appoint any qualified elector to fill such vacancy. The Council shall vote by ballot and the person receiving the majority of the votes of the whole Council shall be declared elected to fill such vacancy. A vacancy in any appointive office shall be filled in the same manner as the original appointment was made.
(Code of Iowa, Sec. 372.13(2))
- 7.09 REMOVAL OF APPOINTED OFFICERS. Except as otherwise provided by law, all persons appointed to city office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed with the Clerk and a copy shall be sent by certified mail to the person removed. Upon request filed with the Clerk within thirty (30) days of the date of mailing the copy, the removed person shall be granted a public hearing before the council on all issues connected with the removal. The hearing shall be held within thirty (30) days of the date the request is filed, unless the person removed requests a later date.
(Code of Iowa, Sec. 372.15)
- 7.10 POSITIONS COMBINED. The powers and duties of an appointed office or employment may be delegated to any other officer or employee or may be combined with each or any other office or position by resolution passed by a majority vote of the entire council.
(Code of Iowa, Sec. 63.3)
- 7.11 COMPENSATION OF APPOINTED OFFICERS. Appointed officers shall receive such salary as may be fixed by the Council from time to time.
- 7.12 MILEAGE. Each officer or employee driving his or her own automobile on City business shall be entitled to claim reimbursement for the expense thereof, at the rate authorized by the National Internal Revenue Code of 1951, as amended. Verified and itemized claims for such reimbursement shall be filed monthly upon forms provided by the Finance Officer and shall set out the name of the claimant, and the number of miles actually and necessarily incurred on behalf of the City. Such claims shall be paid only upon approval by the Council.

7.13 MEETINGS. All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

1. NOTICE OF MEETING (PUBLIC NOTICE) Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.
- 2.a. TWENTY-FOUR HOUR NOTICE. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.
- b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
3. Subsection 1 does not apply to any of the following:
 - a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.
 - b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
(Code of Iowa, Sec. 21.4)
5. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)
6. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.
(Code of Iowa, Sec. 21.3)
7. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:
(Code of Iowa, Sec. 21.5)
 - a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
 - b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
 - c. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
 - d. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
 - e. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
 - f. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

- g. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- h. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.
 - 1. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.
 - 2. This section shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this section applies and which is contained in such a record.
- i. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.
- j. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.
- k. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its

probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.

1. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

8. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

9. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the Code of Iowa.

(Code of Iowa, Sec. 21.8)

- 7.14 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(Code of Iowa, Sec. 362.5)

1. Compensation of Officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.

(Code of Iowa, Sec. 362.5[1])

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.

(Code of Iowa, Sec. 362.5[2])

3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.

(Code of Iowa, Sec. 362.5[3])

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

(Code of Iowa, Sec. 362.5[5])

5. Newspaper. The designation of an official newspaper.
(Code of Iowa, Sec. 362.5[6]) .
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5[7])
7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.
(Code of Iowa, Sec. 362.5[8])
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5[9])
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.
(Code of Iowa; Sec. 362.5[4])
10. Cumulative Purchases. Contracts Benefiting. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of more than two thousand five hundred, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.
(Code of Iowa, Sec. 362.5[10])
11. Cumulative Purchases. Contracts not otherwise permitted by this section for the purchase of goods or services by a city having a population of two thousand five hundred or less, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.
(Code of Iowa, Sec. 362.5[11])
12. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.
(Code of Iowa, Sec. 362.5[12])
- 7.15 GIFTS. Except as otherwise provided in Chapter 68B of the Code of Iowa, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.
(Code of Iowa, Sec. 68B.22)

- 7.16 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use City property owned or leased by the City for any private purpose and for personal gain, to the detriment of the City.

(Code of Iowa, Sec. 721.2(5))

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 8 - MAYOR

8.01 POWERS AND DUTIES. The powers and duties of the Mayor shall be as follows:
(Code of Iowa, Sec. 372.14)

1. **PRESIDING OFFICER.** Act as presiding officer at all regular and special council meetings. The Mayor may call special meetings of the council when necessary to the interests of the city.
2. **ACTION ON ORDINANCE.** May sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. The Mayor may veto an ordinance, amendment, or resolution within fourteen (14) days after passage by the council. The Mayor He shall provide a written explanation for a veto on an ordinance, amendment or resolution.
(Code of Iowa, Sec. 380.5 & 380.6(2))
3. **CONTRACTS.** Sign all contracts on behalf of the city which require the Mayor's signature when authorized by the council.
4. **AUTHORIZE LICENSES AND PERMITS.** Sign all licenses and permits granted by the council, except those legally designated to be issued by another municipal officer.
5. **REVOKE LICENSES AND PERMITS.** Under council authorization, revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.
6. **MAYOR PRO-TEM.** Designate one member of the council as Mayor Pro-Tem.
7. **ABSENTEE OFFICER.** Provide that the duties of an absentee officer are carried on during the officer's absence.
8. **REMOVE NUISANCES.** Order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. The order shall be in writing and carried out by a peace officer.
9. **PROCLAMATION OF EMERGENCY.** Have the authority to take command of the police and govern the City by proclamation, upon making a determination that the time of emergency or public danger exists. Within the City limits the, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14(2))
10. **SPECIAL MEETING.** Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(Code of Iowa, Sec. 372.14[1])

8.02 VOTING. The Mayor is not a member of the council and may not vote as a member of the council.

(Code of Iowa, Sec. 372.4)

8.03 COMPENSATION. Compensation for Mayor, or in his or her absence or inability to act, the Mayor Pro Tempore, shall be paid a salary of \$7,800.00 per year, payable quarterly.

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

(Editor's Note: Ordinance 739, passed & approved on June 20, 2007 amended section 8.03)

CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 9 - MAYOR PRO-TEM

9.01 POWERS AND DUTIES. The duties of the Mayor Pro-Tem shall be as follows:
(Code of Iowa, Sec. 372.14(3))

1. VICE-PRESIDENT. Service as vice-president of the council.
2. PERFORM IN MAYOR'S ABSENCE. Perform the duties of the Mayor in case of absence or inability of the Mayor to perform his or her duties.
3. LIMITED POWER. Shall not have power to employ or discharge officers or employees that the Mayor has the power to appoint, employ, or discharge without approval of the council.
4. VOTING. May vote as a member of the council.

9.02 COMPENSATION. If the Mayor Pro-Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro - Tem shall be paid for that period such compensation as determined by the City Council, based upon his or her performance of the Mayor's duties and upon the compensation of the Mayor.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 3: ADMINISTRATIVE CODE - LEGISLATIVE

ARTICLE 10 - COUNCIL

10.01 POWERS AND DUTIES. The powers and duties of the City Council shall be as follows:

1. GENERAL. All powers of the city are vested in the City Council unless otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2(1))
2. FUNDS. Apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs may be specially assessed.
(Code of Iowa, Sec. 384.2(1), 384.16 & 384.38(1))
3. PUBLIC IMPROVEMENTS. Make all orders for the doing of public improvements, and award contracts for construction of any public improvements.
4. CONTRACTS. Make or authorize all contracts. No contract shall bind or obligate the city unless authorized by the City Council, and be in writing. Contracts authorized by resolution shall be drawn or approved by the City Attorney before they are entered into. Any contracts based upon bidding would require bidding according to the Code of Iowa requirements.
(Code of Iowa, Sec. 384.95-384.102)
5. OFFICERS AND EMPLOYEES. Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.
(Code of Iowa, Sec. 372.13(4&8))
6. PRESCRIBE COMPENSATION. Prescribe the compensation of the Mayor, council members and any other elected city officer, and by resolution the compensation of appointed city officers and employees.
(Code of Iowa, Sec. 372.13 (8))
7. RECORDS. The council shall maintain records of its proceedings.
(Code of Iowa, Sec. 372.13(5))

10.02 EXERCISE OF POWER. The council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

1. APPROVED ACTION BY COUNCIL. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of all the council members. A resolution must be adopted to spend public funds in excess of twenty-five thousand dollars (\$25,000) on any one project, or to accept public improvements and facilities upon their completion, and requires an affirmative vote of not less than a majority of all the council members. Each councilmember's vote

on an ordinance, amendment, or resolution must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

As used in this chapter, "all of the members of the council" refers to all of the seats of the council including a vacant seat and a seat where the member is absent, but does not include a seat where the council member declines to vote by reason of a conflict of interest.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

(Code of Iowa, Sec. 380.4)

2. **PASSAGE OF ORDINANCES.** A proposed ordinance must be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the council members. If a proposed ordinance or amendment fails to receive sufficient votes for passage at any consideration, the proposed ordinance or amendment shall be considered defeated.

(Code of Iowa, Sec. 380.3)

3. **OVERRIDING MAYOR'S VETO.** Within thirty (30) days after the Mayor's veto, the council may repass the ordinance or resolution by a vote of not less than two-thirds (2/3) of the council members; and the ordinance or resolution becomes effective upon repassage and publication.

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

4. **MEASURES BECOME EFFECTIVE.** Measures passed by the council, other than motions, become effective in one of the following ways:

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

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

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

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

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

the day of passage, unless a subsequent effective date is provided within the measure.

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

- d. A motion becomes effective immediately upon passage of the motion by the Council.

(Code of Iowa, Sec. 380.6)

- 5. RESOLUTION OF NECESSITY FOR SPECIAL ASSESSMENT PROJECTS. If, upon adoption of the plat, schedule, and estimate, the council determines to proceed with all or any part of the improvement it shall cause a proposed resolution of necessity to be prepared and introduced as provided in Section 384.49 of the Code of Iowa.

(Code of Iowa, Sec. 384.49)

The Council shall meet as specified in the published notice, and after hearing all objections and endorsements from property owners and other persons having an interest in the matter, and after considering all filed, written objections, may adopt or amend and adopt the proposed resolution of necessity, or may defer action until a subsequent meeting. A resolution of necessity requires for passage the vote of three-fourths of all the members of the council, and where a remonstrance has been filed with the Clerk, signed by the owners subject to seventy-five percent (75%) of the amount of the proposed assessment for the entire public improvement included in the resolution of necessity, a resolution of necessity requires a unanimous vote of the council.

(Code of Iowa Sec. 384.51)

10.04 MEETINGS. Meetings of the council shall be as follows:

- 1. REGULAR MEETINGS. The regular meetings of the council are held on the first and third Monday of each month at 4:30 p.m. in the Council Chambers, City Hall.
- 2. SPECIAL MEETINGS. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place, and subject of the meeting; and such notice shall be given personally or left at the usual place of residence of each member of the council. A record of the service of notice shall be maintained by the Clerk.
(Code of Iowa, Sec. 21.4)
- 3. OPEN MEETINGS. All meetings of the council, standing committees and city boards or commissions, or special committees shall comply with the open meeting laws of Iowa.
(Code of Iowa, Chapter 21)
- 4. QUORUM. A simple majority of all councilmen shall constitute a quorum for the transaction of business.
(Code of Iowa, Sec. 372.13(1))

5. **RULES OF PROCEDURE.** The council shall determine the rules of its own proceedings by resolution, and the Clerk shall keep such rules on file for public inspection.

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

- 10.05 **ELIGIBILITY FOR APPOINTMENT.** A councilmember is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which the councilmember is elected.

(Code of Iowa, Sec. 372.13(9))

- 10.06 **COMPENSATION.** Each Council Member shall receive as salary \$2,600.00 per annum, payable quarterly.

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

- 10.07 **TENTATIVE AGENDA.** The Clerk shall prepare and post a tentative agenda for each meeting at a place, or places, designated by the council, one of which shall be near the place of meeting at the city hall. The posting shall be made at least twenty-four (24) hours before the meeting except as permitted under state law in case of emergencies.

(Editor's Note: Ordinance 739, passed & approved on June 20, 2007, amended section 10.06.)

- 10.08 **GENDER BALANCE.** All appointive boards, commissions, and committees shall be gender balanced. No person shall be appointed or reappointed to any board, commission, or committee if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, or committee plus one if the board, commission, or committee is composed of an odd number of members. If the board, commission, or committee is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission or committee they shall consult each other to avoid a violation of this section.

All appointive boards, commissions, and committees of the City, if not otherwise provided by law, shall be gender balanced as provided in this section unless the City has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, or committee in compliance with this section for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this section, the City shall utilize a fair and unbiased method of selecting the best qualified applicants. This section shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance. Gender balance is applicable to appointive boards, commissions, and committees of the City on and after January 1, 2012.

(Code of Iowa, Sec. 69.16A)

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 11 - CITY ADMINISTRATOR

11.01 CREATION OF OFFICE. There is hereby created the position of City Administrator to be appointed by a majority of the Council.

11.02 DUTIES OF ADMINISTRATOR. The duties of the Clerk shall be as follows:

1. Serve as the Chief Administrative Officer and Treasurer for the City fulfilling all of the statutory duties of this office.
2. Supervise and give direction to all city department heads concerning departmental functions. The Administrator may examine all department functions and records and call for special reports from department heads at any time.
3. Attend all meetings of the council unless excused by the Mayor.
4. Recommend to the council such measures, as the Administrator may deem necessary or expedient for the good government and welfare of the City.
5. Have the general supervision of and direction of the administration of the city government and may appoint, with approval of the Council, such administrative assistants as shall be deemed advisable.
6. Supervise and direct the official conduct of all officers of the City whom the Clerk has power to appoint.
7. Supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.
8. Authority to recommend employment, reclassification, or discharge of all employees of the City, subject to the provisions of the Soldier's Preference Law (Iowa Code, Chapter 70) and the Civil Service Law (Iowa Code, Chapter 365) except the City Clerk, Fire Chief and Chief of Police, all subject to approval of the Council.
9. Cooperate with any administrative agency.
10. The Administrator or any person appointed for this purpose, may summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under, his or her supervision.
11. Keep the council fully informed of the financial and other conditions of the City, and its future needs.
12. Prepare and submit to the Council annually the required budgets.

13. Supervise the enforcement and execution of all City laws.
 14. Have charge and control of the police and fire departments.
 15. Sign payroll and voucher checks.
 16. Supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the city, including the making and preservations of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
 17. During any period of temporary or extended absence of the City Administrator, or until such time as the Administrator may in the event of death or disability, be replaced by the council, each department head shall be responsible for and accountable to the City Council for their several areas of expertise and their departmental responsibilities as specified by their individual job descriptions.
- 11.03 COMPENSATION. The Administrator shall receive such annual salary as the council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the city, in the manner provided for paying other officers and employees.

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 12 - CITY CLERK

12.01 POWERS AND DUTIES. The power and duties of the City Clerk shall be as follows:

1. ADMINISTER OATHS. Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 63A.2)
2. ATTEND MEETINGS. Attend all meetings of the council and its committees unless excused by the Mayor.
3. RECORD PROCEEDINGS. Record and preserve a record of meeting proceedings and publish a summary of Council proceedings after each regular or special meeting.
(Code of Iowa, Sec. 380.7(1))
4. ORDINANCES. Publish all ordinances immediately after passage and approval by council, and keep an ordinance book authenticating each ordinance and certifying as to the time and manner of publication.
(Code of Iowa, Sec. 380.7(3) & 362.3)
5. RESOLUTIONS. Keep an official resolution record book, and enter each resolution therein.
6. COUNCIL COMMUNICATIONS. Keep and date all communications and petitions directed to the council or city, and endorse thereon council action taken on matters presented in such documents.
(Code of Iowa, Sec. 372.13(4))
7. CORPORATE SEAL. Affix the corporate seal to those public documents or instruments as directed by the Mayor or council or as required by law.
(Code of Iowa, Sec. 380.7(4))
8. ELECTIONS. Accept the nomination petition of a candidate for a city office for filing if on its face it appears to have requisite number of signatures and it is timely filed. The Clerk shall deliver all nomination papers to the county commissioner of elections no later than five o'clock p.m. (5 p.m.) on the day following the last day on which nomination petitions can be filed.
(Code of Iowa, Sec. 376.4)
9. ISSUE LICENSES AND PERMITS. Issue all council-approved licenses and permits and keep a record of them, showing the date, number, to whom issued, and for what purpose.

10. AUTHENTICATE DOCUMENTS. Sign all evidences of indebtedness, coupons, or certificates as required by law.
(Code of Iowa, Sec. 380.7(4))
11. OTHER DUTIES. Perform such other duties as specified by council resolution or ordinance.
12. Assist with supervision of the enforcement and execution of all City laws. Direct issuance and revocation of licenses and permits, and the keeping of records as authorized by the City.
13. Direct the office operations of the City and supervise the work activities of its clerical and secretarial personnel and monitor the City's payroll system in accordance with established governmental standards and practices.
14. Train and supervise clerical and secretarial staff in order to provide needed office and accounting services to the City. The City Clerk shall supervise the City's computer operations.
15. Plan, schedule and assign work activities and job duties to office staff and promote a positive work environment for employees and the public being served.
16. Audit and review the work performed by office staff to assure its accuracy, timeliness, and compliance with governmental requirements.
17. Prepare regular and special reports for the City Administrator, City Council, and governmental reporting bodies as required relative to the operations of the City and the needs of special projects or proposals.
18. Sign payroll and voucher checks when directed by the City Administrator. Maintain proper verification and reporting records.
19. Coordinate the work of office staff in handling customer service questions, complaints and requests and in handling billing and payment for City services. Maintain positive public relations on behalf of the City.
20. Communicate information to office staff concerning policies, governmental requirements, and work specifications. Encourage regular feedback from staff and assist them in developing effective problem-solving skills.
21. Work effectively with the City Administrator, department heads and other city employees to maintain supportive and cooperative relationships. Assist with other City work activities as needed including day to day operating issues.

12.02 CUSTODY OF RECORDS. The Clerk shall have custody of all records and documents pertaining to the municipality unless otherwise directed by law or ordinance and:
(Code of Iowa, Sec. 372.13(3))

1. FILE AND RECORD TRANSACTIONS. File and preserve all receipts, vouchers, and other documents kept or required to be kept so as to prove the validity of every transaction and identity of any person having a beneficial relation thereto.
2. DESTROY OLD RECORDS. Destroy all vouchers and minor records over five years old except those specified for retention by law.
(Code of Iowa, Sec. 372.13(3&5))
3. FURNISH COPIES. Furnish, upon request, to any municipal officer a copy of any record, paper, or public document under her control when necessary to the discharge of the officer's duty. She or he shall also furnish a copy to any citizen when requested upon payment of the allowable charge set by law or council.
4. CERTIFY MEASURES. Certify to the county recorder all ordinances establishing zoning district, building lines, or fire limits, and a plat showing each district, lines, or limits.
(Code of Iowa, Sec. 380.11)
5. RECORD APPOINTMENTS. Keep a record of all appointments, notifying all persons appointed by the Mayor or council of such appointments and the time of taking office.

12.03 PUBLICATION. The Clerk shall cause to be published all ordinances, enactments, proceedings and official notices requiring publication as follows:

1. TIME. If notice of an election, hearing or other official action is required by the municipal code or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.
2. MANNER OF PUBLICATION. A publication required by the city code or law must be in a newspaper published at least once weekly and having general circulation in the city (except that ordinances and amendments may be published by posting in the official places set by ordinance).
(Code of Iowa, Sec. 362.3(2))

12.04 COMPENSATION. The Clerk shall be paid such annual salary as the council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the city, in the manner provided for paying other officers and employees.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 13 - FINANCE OFFICER

13.01 CHIEF ACCOUNTING OFFICER. The Finance Officer shall be chief accounting officer of the city and:

1. BUDGET ACCOUNTS. Maintain the budgetary accounts required by law and as directed by the council.
2. BUDGET REPORTS. Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
3. REVENUES FROM CITY UTILITY. The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited with the treasurer of the City and kept by the treasurer in a separate account apart from the other funds of the city and from each other.
(Code of Iowa, Sec. 384.85)
4. PAY CLAIMS. Pay all claims against the city only upon council order or other council authorization.
5. BALANCE ACCOUNTS. Reconcile the bank statements with his or her books and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.
6. INVESTMENTS. Advise the council on investments, and invest City monies not immediately needed at interest in accordance with council directives, the City's investment policy and the requirements of sections 12B.10, 12B.10A, 12B.10B and 12B.10C of the Iowa Code and any other provisions deemed necessary to adequately safeguard invested public funds.
7. ANNUAL REPORT. Prepare the City's annual financial report.
8. Review rate coverage ratio annually (utilities).

13.02 COMPENSATION. The Finance Officer shall receive such wage as the council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the city, in the manner provided for paying other officers and employees.

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 14 - CITY ATTORNEY

14.01 APPOINTMENT. The Attorney shall be appointed by the Council as its Chief Legal Officer, and in the discharge of his or her duties shall be under the supervision of the Council and Mayor. Other counsel may be employed in any case by the Council.

14.02 POWERS AND DUTIES. The duties of the City Attorney shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. **ATTEND MEETINGS.** Attend those meetings of the council at which the City Attorney is requested to be present.
2. **DRAFTS.** Formulate drafts for contracts, forms, and other writings which may be required for the use of the city upon request.
3. **DOCKET AND RECORD OF OPINIONS.** Keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defended by the City Attorney accompanied by all proceedings related to said actions.
4. **LEGAL OPINION.** Give his or her opinion in writing upon all questions of law relating to municipal affairs submitted by the council, the Mayor, members of the council individually, municipal boards, or the head of any municipal department upon request.
5. **PREPARE ORDINANCES.** Prepare those ordinances which the council may desire and direct to be prepared and report to the council upon all ordinances before their final passage by the council and publication.
6. **REPRESENT CITY.** Act as attorney for the city in all matters affecting the city's interests, and appear on behalf of the city before any court tribunal, commission, or board. He/she shall prosecute or defend all actions and proceedings when so requested by the Mayor or the council.
7. **REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.** Not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. He/she shall, however, if directed by the 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 said office or employment.
8. **CERTIFY BONDS.** 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. REVIEW CONTRACTS AND ORDINANCES. Shall upon request, make a written recommendation to the council concerning all contracts, documents, authorized powers of city officers, and ordinances submitted to him or her or coming under his or her notice before they go into effect.
 10. CONDEMNATION PROCEEDINGS. Manage and conduct all condemnation proceedings where the private property is taken for public use.
 11. REPORT. Submit reports to the Council as requested.
 12. OTHER DUTIES. The attorney shall have such other powers and perform such other duties as may be required by the Council, the provisions of this Code or the laws of the State, and shall transmit to his or her successor in office all books, papers, records, documents and property belonging to the City, together with an invoice of the same, in his or her custody or appertaining to his or her office.
 13. POWER OF ATTORNEY. 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.
- 14.02 COMPENSATION. The City Attorney shall be paid such compensation as specified by resolution of the council.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 15 - CHIEF OF POLICE

15.01 APPOINTMENT. At the first regular meeting of the newly elected Council following the general Municipal election, or as soon thereafter as practical, the Mayor shall appoint a Chief of Police who shall be the ministerial officer of the City and, subject to the control of the City Administrator, have direction of the police force. The Chief shall execute and return all writs and processes directed to him/her by the Mayor, Council, City Administrator, or any court, and in criminal cases or in case of the violation of any provision of this Code, he/she may serve them in any part of the City.

15.02 BADGE. The Chief of Police shall wear a badge or shield of office, with the name of the office displayed thereon, upon his/her person in plain view.

(Editor's Note: Section 15.02 was amended at time of 2008 Codification)

15.03 MAY SUMMON AID. The Chief of Police may orally summon as many persons as he/she finds necessary to aid him/her in making an arrest of any person accused or suspected of a crime, or in the suppression of any riot or unlawful assemblage, or in the prevention of the violation of any provisions of this code.

15.04 DUTIES AND RESPONSIBILITIES. The Chief of Police shall have the following duties and responsibilities:

1. **PUBLIC PEACE**. Cause the public peace to be preserved, enforce all laws and provisions of this Code, and when any violation thereof shall come to his/her knowledge or be reported to him/her on reliable information he/she shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender.
2. **DISTURBANCES**. Suppress all riots, disturbances and breaches of the peace; apprehend any person in the act of committing an offense against the laws of the State or the provisions of this Code and forthwith bring such person or persons before the proper authority for examination and trial. He/she shall examine into all violations of this Code and the criminal laws of the State and all nuisances within the corporate limits of the City, and report the same to the City Administrator.
3. **NUISANCES**. The Chief of Police shall serve or cause to be served notice upon the owner, agent, or occupant of any private property where a nuisance exists, or upon any person causing or responsible for any nuisance existing on any street, alley or public ground, requiring such owner, agent or occupant, or person causing or responsible for such nuisance, to abate or remove the same, and if the same is not abated or removed, to remove or abate the same as shall be necessary.

4. ATTEND COUNCIL MEETINGS. The Chief of Police shall be the sergeant-at-arms of the Council Chamber and shall, when requested, attend meetings of the Council and do such other things the Mayor and Council shall from time to time direct.
 5. RECORD OF RECEIPTS. Keep a correct account in a book, provided for that purpose, of all money or property belonging to the City coming into his/her hands from whatever source, stating from whom or on what account the same was paid, and he/she shall, when not otherwise provided, pay over monthly to the Clerk all money and securities in hand belonging to the City and take the Clerk's receipt therefore.
 6. ARRESTS. Make monthly reports to the Council, and more often if required by them, of his/her acts and doings as Chief of Police, and shall submit his/her books to the inspection of the City Administrator.
 7. OTHER POWERS. The Chief of Police shall have such others powers and perform such other duties as may be provided by the Council, the provisions of this Code or the laws of the State, and shall transmit to his/her successor in office all books, papers, records, documents and property, together with an invoice of the same, in his/her custody or appertaining to his/her office.
- 15.05 COMPENSATION. The Chief of Police shall receive such compensation as shall be specified by resolution of the Council.
(Code of Iowa, Sec. 372.13(8))

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION CHAPTER

ARTICLE 16 - POLICE DEPARTMENT

- 16.01 PURPOSE. A police department is established for the purpose of providing for the preservation of peace and enforcement of the law within the corporate limits of the city.
- 16.02 APPOINTMENTS. The Police Chief shall be appointed by the Mayor. Other officers shall be selected as directed by the council.
(Code of Iowa, Sec. 372.4)
- 16.03 OATH. Every police officer shall take the oath prescribed in Title 1, Chapter 1, Section 6.07 before entering the duties of his/her office.
- 16.04 QUALIFICATIONS. Any person recruited, selected or appointed as a police officer shall meet the qualifications and certifications required by the Code of Iowa, Sec. 80B.11.
- 16.05 TRAINING. All officers shall have received the minimum training by law at an approved law enforcement training school, and be certified, within one year of employment.
(Code of Iowa, Sec. 80.11)
- 16.06 BENEFITS. Benefits shall be made available to police officers as provided by the collective bargaining agreement between the police officers and the city, as in effect from time to time.
- 16.07 REMOVAL, DEMOTION AND SUSPENSION. A police officer may be removed, demoted or suspended for violation of the rules or regulations as provided by the terms of the collective bargaining agreement in effect between the City and police officers.

CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION CHAPTER

ARTICLE 17 - FIRE CHIEF

17.01 APPOINTMENT. The Mayor, with the approval of the Council, shall appoint the Fire Chief for a term of two (2) years or for the balance of a term if to fill a vacancy. The council may remove the Fire Chief by written order setting out the reasons for removal which shall be filed with the Clerk. The Fire Chief, before entering upon the duties of his/her office, shall qualify for office by taking the oath prescribed in Title 1, Chapter 1, Section 6.07 of this Municipal Code.

17.02 POWERS AND DUTIES. The duties of the Fire Chief shall be as follows:

1. **DIRECT DEPARTMENT**. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.
2. **ENFORCE DEPARTMENT REGULATIONS**. Enforce all rules and regulations established by the council for the conduct of the affairs of the fire department.
3. **CONTROL DEPARTMENT PROPERTY**. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
4. **KEEP RECORDS**. Keep records of the fire department personnel, operating cost and efficiency of each element of firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.
5. **REPORTS**. Make quarterly written reports to the Mayor and council concerning the general status and efficiency of the fire department, the number of alarms answered during the previous month, and any additional information. He/she shall compile and file with the Mayor an annual report summarizing the department's activities for the year and containing recommendations for improvements in the department.
6. **ENFORCE ORDINANCES AND STATE LAWS**. Enforce all ordinances and, here enabled, state laws regulating the following:
 - a. Fire prevention;
 - b. Maintenance and use of fire escapes;
 - c. The investigation of the cause, origin and circumstances of fires;
 - d. The means and adequacy of exit in case of fire from halls, theaters, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose;
 - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. **RIGHT OF ENTRY.** Have the right of entry into any building or premises within his/her jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. He/she shall conduct such investigation or inspection that he/she considers necessary in light of state law, regulation or ordinance.
8. **MAKE RECOMMENDATIONS.** Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
(Iowa Code, Sec. 100.12)
9. **AID STATE FIRE MARSHAL.** Aid the State Fire Marshal when requested in the performance of his/her duties by investigating, preventing and reporting data pertaining to fires.
10. **INVESTIGATIONS.** Investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. If death, serious bodily injury or property damage in excess of two hundred thousand dollars (\$200,000.00) occurs as a result of a fire, or if arson is suspected, he/she shall notify the state fire marshal's division immediately. Within ten (10) days following the end of each month the Chief shall file a report of all fire incidents with the State Fire Marshal's division in the form required by the state fire marshal.
11. **AUTHORITY AT FIRES.** When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.
(Code of Iowa, Sec. 102.2).
12. **CONTROL OF SCENE** Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.
(Code of Iowa, Sec. 102.2)
13. **AUTHORITY TO BARRICADE.** When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right -of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting effort of the fire department, to control the scene until any required investigation is complete or to preserve evidence related to the fire or other emergency.
(Code of Iowa, Sec. 102.3)
14. **TECHNICAL ASSISTANCE.** Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

17.03 COMPENSATION. The compensation of the Fire Chief shall be determined by the council.

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

TITLE 2 - BOARDS AND COMMISSIONS

CHAPTER 1: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 1 - PLANNING AND ZONING COMMISSION

- 1.01 PLANNING AND ZONING COMMISSION CREATED. There is hereby created a city planning and zoning commission composed of seven (7) residents of the city of Orange City, Iowa, who shall be qualified by knowledge and experience to act in matters pertaining to the development of city planning and zoning, none of whom shall hold any elective position in the city. Such members shall be appointed by the Mayor with the approval of the City Council.
- 1.02 TERM OF OFFICE. The term of office of commission members shall be five (5) years, appointed so that the term of office of not more than two (2) members shall expire in any one year. Any vacancy occurring on the commission, caused by resignation or otherwise, shall be filled by appointment of the Mayor for the unexpired term subject to approval of the Council. All members of such commission shall serve without compensation except their actual expenses which shall be subject to the approval of the council. The commission shall choose annually at its first regular meeting one of its members to act as chairperson and another as vice-chairperson to serve in the absence of the chairperson.
- 1.03 POWERS. Said commission shall have and possess the following powers and such powers as may be incidental to the successful carrying out of the powers invested in it herein or such as may be expressly conferred upon it by law:
1. PLANS. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.
 2. ZONING PLAN. To prepare a plan for zoning regarding the height, number of stories, and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes and to this end shall prepare a preliminary report and hold public meetings thereon and after such hearings have been held, to submit its final report and recommendations to the city council.
 3. RECOMMEND CHANGES. To recommend to the council, from time to time, as conditions require, amendments, supplements, changes, or modifications in the comprehensive plan prepared by it, and recommend changes to the zoning regulations.

CHAPTER 1: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 2 - LIBRARY BOARD

- 2.01 PUBLIC LIBRARY. The public library established for the City of Orange City is to be known as the Orange City Public Library.
- 2.02 BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees is established and shall consist of seven (7) members to be appointed by the Mayor and approved by the Council.
(Code of Iowa, Sec. 392.5)
- 2.03 QUALIFICATIONS. All board members shall be bona fide citizens, over the age of eighteen (18) years old.
- 2.04 TERMS. The seven members of the Library Board of Trustees shall be appointed so that the appointment of no more than three trustees shall end during the same year. Members of the Library Board of Trustees shall serve for a term of no greater than five (5) years.
- 2.05 VACANCIES. A board position shall become vacant if the trustee moves permanently from the city, or is absent from four (4) consecutive regular board meetings, except in the case of illness or temporary excused absence from the city. Vacancies shall be filled by appointment of the Mayor with council approval, and the new trustee shall fill the unexpired term for which the appointment was made.
- 2.06 POWERS AND DUTIES. The board shall have the following powers and duties:
1. OFFICERS. Meet and elect a chairperson, vice-chairperson, and secretary from its members.
 2. RESPONSIBLE FOR LIBRARY. Take charge, control, and supervision of the public library, its appurtenances, fixtures, and rooms for library purposes.
 3. DIRECT AFFAIRS. Direct and control library affairs.
 4. LIBRARIAN. Employ a librarian and fix the librarian's compensation.
 5. OTHER EMPLOYEES. Authorize the librarian to employ assistants and other employees necessary to operate the library properly.
 6. REMOVAL. Remove the librarian, assistants, or employees by a two-thirds vote of the board.
 7. SELECT LIBRARY MATERIALS. Select, or authorize the librarian to select and make purchases of all library materials and supplies, within budgetary units set by the board.
 8. NONRESIDENT USE. Authorize the use of the library by nonresidents of the city and to fix charges thereof.

9. GIFTS. Accept and control the expenditure of all gifts, devises, and bequests to the library, and require the council to appropriate such monies to the library.
(Code of Iowa, Sec. 392.5)
 10. RULES AND REGULATIONS. Make and adopt, amend, modify, or repeal rules and regulations for the care, use, and management of the library, and prescribe penalties for rule violations.
 11. RECORD. Keep a record of its proceedings.
 12. HISTORICAL ASSOCIATIONS. May make agreements with local county historical associations when applicable, to set apart room for and care for articles of historical or educational interest in the possession of the association, and purchase with library funds such materials necessary to preserve and protect such articles.
- 2.07 POWER TO CONTRACT. The board may contract with any other board of trustees of a public library and any school, corporation, city, and county. If there is a county library district, the city may contract with it for the use of the library by city residents. Such contract may be terminated at any time by mutual consent of the contracting parties, or by a majority vote of the electors represented by either contracting party.
- 2.08 NONRESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by nonresidents by:
1. TERMS OF LOAN. Lending library materials to nonresidents on the same terms as to residents of the city, or upon payment of a special nonresident fee.
 2. DEPOSITORIES. Establishing depositories of library materials to be loaned to nonresidents.
 3. BOOKMOBILES. Establishing bookmobiles or a traveling library.
 4. BRANCH LIBRARIES. Establishing branch libraries.
- 2.09 LIBRARY ACCOUNT. The council may appropriate in the general fund a library account to be used for the operation and maintenance of the library. Expenditures shall be paid only on board orders, signed by the president and secretary.
- 2.10 ANNUAL REPORT. The board shall submit an annual comprehensive report to the council after the close of the municipal fiscal year.
- 2.11 OPEN MEETINGS. All meetings of the library board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.

2.12 LIBRARY MATERIALS. Library materials include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:

- a. A public library.
- b. A library of an educational, historical, or eleemosynary institution, organization, or society.
- c. A museum.
- d. A repository of public records.

(Iowa Code, Sec. 702.22(1))

2.13 LIBRARY EQUIPMENT. Library equipment includes audio, visual, or audiovisual machines, computers, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in section 14.12 of this Article.

(Iowa Code, Sec. 702.22(2))

2.14 INJURY TO BOOKS OR PROPERTY. It shall be unlawful for a person to willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any library materials.

2.15 THEFT OF LIBRARY MATERIALS. The fact that a person has concealed library materials as defined in sections 2.12 and 2.13 or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of intent to deprive and, if person conceals or causes to be concealed library materials or unpurchased property, upon the person or among the belongings of another, the finding of the same is also material evidence of intent to deprive on the part of the person concealing the library materials or goods.

2.16 DETENTION AND SEARCH.

1. Persons concealing property as set forth in section 2.15 may be detained and searched by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee, provided that the detention is for a reasonable length of time and that the search is conducted in a reasonable manner by a person of the same sex and according to subsection 2 of this section.
2. No search of the person under this section shall be conducted by any person other than someone acting under the direction of a peace officer except where permission of the one to be searched has first been obtained.
3. The detention or search under this section by a peace officer, person employed in a facility containing library materials, merchant or merchant's employee does not render the person liable, in a criminal or civil action, for false arrest or false imprisonment provided the person conducting the search or detention had

reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property set forth in section 2.15.

CHAPTER 1: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 3 - HOSPITAL BOARD OF TRUSTEES

- 3.01 BOARD OF TRUSTEES. The Board of Hospital Trustees of the Orange City Area Health System shall consist of seven (7) hospital trustees, six (6) of which will be elected at large by the entire Orange City electorate and one (1) of which will be elected at large by the entire Alton electorate.
- 3.02 TERM OF OFFICE. The term of office for hospital trustees shall be four (4) years. The board shall be appointed so that the term of no more than four (4) members shall expire in one year.
- 3.03 QUALIFICATION. The trustees shall within ten (10) days after their election, qualify by taking the oath of office and organize as a Hospital Board by the election of one (1) of their number as Chairperson and one (1) as Secretary.
- 3.04 POWERS. The Board of Hospital Trustees are vested with authority to provide for the management, control, and government of such City Hospital as they shall cause to be constructed or purchased and shall provide all needed rules and regulations for the economic conduct thereof.
- 3.05 COOPERATION AND CONSENT. This Article shall become effective only upon a showing of approval by the city councils of both Alton, Iowa and Orange City, Iowa.

(Editor's Note: Ordinance 726 approved by City Council on July 6, 2004 amended Sections 3.01 and 3.02 and created Sections 3.05.)

CHAPTER 1: BOARDS, COMMISSIONS AND DEPARTMENTS

ARTICLE 4 - BOARD OF ADJUSTMENT

- 4.01 BOARD OF APPEALS. A Board of Adjustment is hereby established, which board shall consist of five (5) members appointed by the Mayor, subject to confirmation by the City Council. Appointments to the board shall be for a term of five (5) years and in such a manner that the term of no more than 2 members shall expire in any one year. Any vacancy shall be filled in the same manner for the unexpired portion of the term. In the event of the absence from the City or the incapacity of a member, the Mayor may appoint a substitute who shall serve as a member of the board, with the same powers and authority as the regular member, until such member has returned or has become capacitated for further service.
- 4.02 COMPENSATION. All members of the board shall serve without compensation.
- 4.03 CODE ENFORCEMENT OFFICER TO ACT AS SECRETARY OF BOARD. The Code Enforcement Officer shall serve as the Secretary of the Board. In the absence of the Secretary, the Chairperson of the Board may appoint one (1) of the members of the board to act as Secretary Pro-Tem for the meeting. The board shall have the power to call on any city department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required.
- 4.04 BOARD MAY ADOPT RULES AND REGULATIONS. The board may adopt, from time to time, subject to approval by the City Council, such rules and regulations as it may deem necessary to carry into effect the provisions of this Article.
- 4.05 BOARD MEETING, CHAIRPERSON, QUORUM. The board shall annually elect its own Chairperson at the first of each fiscal year. Such Chairperson, or in his/her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses.

There shall be a fixed place of meeting and all of the three members shall be necessary to constitute a quorum. The concurring vote of three (3) members of the board shall be necessary on all matters upon which it is required to pass under the provisions of this article of the Municipal Code.

All meetings of the board shall be conducted in a manner so as to comply with the open meetings requirements of this code and Chapter 21 of the Code of Iowa.

- 4.06 SECRETARY TO KEEP RECORDS. The Secretary of the board shall keep minutes of its proceedings, showing the vote of each member upon each question. If a member is absent or fails to vote, the minutes shall indicate such fact. The board shall keep record of its examination and other official actions, which shall be on file in the Office of the City Clerk as a public record.

4.07 APPEALS TO BOARD OF ADJUSTMENT. Appeals to the board may be taken by any person aggrieved, or by any officer, department, or board of the City. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the Secretary of the board a written notice of appeal, specifying the grounds thereof. Notice of such appeal shall be given as required by the board except in cases of appeal of zoning enforcement action and notice of such appeal shall be given by publication in a newspaper of general circulation in the City of Orange City, as provided by the regulations of the board. The Secretary of the board shall give prompt notice of such appeal to officers, departments, or board affected who shall, forthwith, transmit to the Board of Adjustment all papers and documents constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the enforcing officer certifies to the board after the notice of the appeal shall have been filed with him or her, that by reason of facts stated in the appeal a stay would in his or her opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record on application of notice to the enforcing officer and due cause shown. The final disposition of any appeal shall be in the form of a resolution by the board either reversing, modifying, or affirming the decision or determination appealed from. A copy of such resolution shall be filed with the enforcing officer.

4.08 AUTHORITY OF BOARD. The Board of Appeals in specific cases shall have the following powers.

1. APPEALS: To hear and decide appeals where it is alleged there is error in any order, requirement, or determination made by the officer, department, or board of the City in the enforcement of the City of Orange City Zoning Ordinance.
2. APPEALS IN SPECIAL ZONING CASES: To authorize upon appeal in the following special cases such variance from the terms of the ordinances as will not be contrary to the public interest, where, owing special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. However, nothing herein shall be construed as giving the board the right, power, or authority to change the limits or extent of any zoning district, or to grant permission for the erection or use of any building or the use of any land for a purpose which is specifically prohibited herein.
 - A. The erection and use of any accessory building on a lot in any residential district before the erection of a principal building on such lot; provided such use is temporary and for a period of time not to exceed one year and is not used as a dwelling.
 - B. The extension of an existing building or use into a more restricted district immediately adjacent, under such conditions as will safeguard the character of the more restricted district, provided that such extension shall not be permitted more than fifty (50) feet beyond the boundary line of the district in which such building or use is authorized.

- C. The extension or enlargement of an existing use located in a district against such use, either by the extension or enlargement of an existing building or use of land, or by the erection of an additional building where such extension or enlargement is necessary incident to the trade, business, or industry existing on the effective date of this ordinance, provided that such extension or enlargement will not prove detrimental to or tend to alter the character of the neighborhood.
- D. The erection of buildings or the use of land not in accordance with the requirements of this ordinance, in the case of an undeveloped section of the City for a period not to exceed one year in any case, where such building or uses are clearly incidental to and necessary for residential development or are temporary only and will not tend to permanently alter the character of such section of any adjoining or nearby section.
- E. The erection and use of a building or the use of land in any district by a public service corporation or for public purposes, which the board considers reasonably necessary for the public convenience or welfare.
- F. To permit any use in a district which is not specifically prohibited in such district, and that is in keeping with and appropriate to the uses authorized in such district by the provisions of this ordinance.
- G. The substitution of on nonconforming use for another under the limitations of "non-conforming use substituted."

4.09 VARIANCES IN ZONING ORDINANCE PROVISIONS. The board may in specific cases upon appeal grant variance in the literal interpretation of the provisions of the ordinance, within the limits set forth herein, provided such variance meets the following specified conditions:

- 1. The variance will not authorize a use that is prohibited in the district in which the property in question is located.
- 2. The circumstances creating the need for the variance are unique to the property in question and are not caused by the owner in any way.
- 3. The variance will not substantially or permanently injure adjacent property in the same district.
- 4. The variance will not weaken the general purposes of this ordinance or the regulations herein established for the specific district.
- 5. The variance will be in harmony with the spirit and purposes of this ordinance.
- 6. The location and construction of Public Buildings after receiving a report from the Planning and Zoning Commission approving same.

TITLE 3 - BUILDING REGULATIONS

CHAPTER 1: BUILDING CODE

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 SHORT TITLE. This ordinance shall be known as the Orange City, Iowa, Building Code, and may be cited as such, and will be referred to herein as "this ordinance."
- 1.02 ADOPTION OF BUILDING CODES. To regulate the erection, construction, alteration, enlargement, extension, remodeling, raising, or moving of any and all structures within the city of Orange City, Iowa, the following technical codes are hereby adopted:
- A. BUILDING CODE ADOPTED. There is hereby adopted by the city for the purpose of establishing rules and regulations to allow the enforcement of that certain building code known as the Uniform Building Code, latest printed edition or its successor, as published by the International Conference of Building Officials, which code is hereby incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all structures within the city. An official copy of such code shall be maintained on file in the office of the City Clerk.
 - B. ELECTRICAL CODE ADOPTED. There is hereby adopted by the city for the purpose of establishing rules and regulations and allowing the enforcement of that certain code known as the National Electrical Code, latest printed edition, standard of the National Board of Fire Underwriters for electrical wiring and apparatus, as recommended by the National Fire Protection Association. Said code shall govern the use of electricity for light, heat, power, and any other purposes and the whole thereof is hereby incorporated as fully as if set forth at length herein, and the provisions of such code shall be controlling within the city. An official copy of such code shall be maintained on file in the office of the City Clerk.
 - C. PLUMBING CODE ADOPTED. There is hereby adopted by the city for the purpose of establishing rules and regulations and allowing the enforcement of that certain code known as the International Plumbing Code, latest printed edition, as published by the International Code Council Inc. Said code shall govern the installation, construction, and repair of plumbing systems, appliances, fixtures and appurtenances and the whole thereof is hereby incorporated as fully as if set forth at length herein, and the provisions of such code shall be controlling within the city. An official copy of such code shall be maintained on file in the office of the City Clerk.
 - D. MECHANICAL CODE ADOPTED. There is hereby adopted by the city for the purpose of establishing rules and regulations and allowing the enforcement of that certain code known as the Uniform Mechanical Code, latest printed edition or its successor, as published by the International Conference of Building Officials. Said code shall govern the design, construction, installation, and maintenance of heating, ventilating, cooling and refrigeration systems and the whole thereof is hereby incorporated as fully as if set forth at length herein, and the provisions of such code shall be controlling within the city. An official copy of such code shall be maintained on file in the office of the City Clerk.

E. **ENERGY CODE ADOPTED.** There is hereby adopted by the city for the purpose of establishing rules and regulations and allowing the enforcement of that certain code known as the International Energy Conservation Code, latest printed edition, as published by the, International Code Council Inc. Said code shall govern the design and installation of energy conservation systems and buildings, and the whole thereof is hereby incorporated as fully as if set forth at length herein, and the provisions of such code shall be controlling within the city. An official copy of such code shall be maintained on file in the office of the City Clerk.

1.03 **CONFLICTS AMONG CODES.** In the event of any conflict between the provisions of the codes adopted by this ordinance and any other applicable city ordinance, rule, or regulation, or state and federal law, the provisions of this ordinance, city rule or regulation, or state and federal law shall prevail and be controlling.

1.04 **PENALTIES FOR VIOLATIONS.** Any person who shall violate any provision of the codes adopted herein shall be guilty of a misdemeanor and be subject to punishment as prescribed by the city council. Each day that such violation shall continue shall be deemed a separate offense.

1.05 **ADMINISTRATIVE PROVISIONS.** To facilitate the enforcement of the codes adopting this ordinance, there is hereby created a city department known as the code enforcement department. It shall be the duty of such department to enforce the provisions of the stated codes, with periodic updates thereof to be applied within a reasonable time after adoption, publication and assimilation into commonly used engineering and architectural software programs. Projects covered in an issued building permit shall be completed under the standards in effect at the time of the approval and used to prepare the specifications relied upon in obtaining the permit.

A. **SUPERVISION.** The code enforcement department shall be under the direct supervision of the City Administrator.

B. **EMPLOYEES.** The City Administrator shall appoint a code enforcement officer and as any other employees as is necessary to insure the enforcement of such stated codes.

C. **LIMITATIONS ON EMPLOYEES.** No officer or employee connected with the code enforcement department shall be financially interested in furnishing labor, materials, or appliances for the construction, alteration, or maintenance of any structure unless he/she is the owner of such structure. No officer or employee shall engage in any work which is inconsistent with his/her duties or the interests of the department.

D. **RECORDS.** The code enforcement official shall keep records of the business of the code enforcement department, and such records shall be open to public inspection.

E. **RIGHT OF ENTRY.** The code enforcement official or his/her duly authorized agent shall have the authority to enter any building, structure, or premises to perform any duty imposed upon him/her by the provisions of this ordinance.

- F. **STOP WORK ORDER.** Upon notice from the code enforcement department that work on any building or structure is being performed contrary to the provisions of the certain stated codes in this ordinance or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to the owner's agent or to the person doing the work, and shall state the conditions under which the work may be resumed. Where an emergency situation exists, no written notice shall be required to be given by the code enforcement department.
- G. **PERMIT FEES.** The amount to be charged for the issuance of permits and the performance of inspections as required by the technical codes adopted by this ordinance shall be determined by the city council from time to time and be on file in the code enforcement department.
- 1.06 **SEVERABILITY CLAUSE.** Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- 1.06 **REPEAL OF CONFLICTING ORDINANCES.** All existing building code ordinances and parts of building code ordinances in conflict with this ordinance, are hereby repealed.

CHAPTER 2: DUTCH FRONT ORDINANCE

ARTICLE 2 - GENERAL PROVISIONS

- 2.01 TITLE. This ordinance shall be known and may be cited and referred to as the Orange City Business District Dutch Front Committee Ordinance and shall be referred to herein as the "Dutch Front Ordinance".
- 2.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this Dutch Front Ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by the provisions of law or by other rules or regulations or ordinances, the provisions of this Dutch Front Ordinance shall control.
- 2.03 DEFINITIONS. For the purpose of this Dutch Front Ordinance, certain terms and words are hereby defined:
1. Orange City Business District: All areas which have been zoned commercial by Ordinance of the City of Orange City.
 2. Dutch Front Committee: The Dutch Front Committee as established by the Orange City Council.
 3. Inspector: The City of Orange City, its zoning enforcement officer or any other person or agent the Council may designate to oversee the administration of this code.
 4. Dutch Theme: The philosophy in keeping with Dutch architecture as developed by the Dutch Front Committee.
 5. May: The word may is permissive.
 6. Measure: Includes an ordinance, amendment, resolution or motion as defined by Chapter 362 Code of Iowa.
 7. Person: As pertaining to this Dutch Front Ordinance, any association, organization, trust or company, its or their successor or assigns or agent.
 8. USED OR OCCUPIED: In addition to their ordinary meaning, they include intended, designed, or arranged to be used or occupied.

2.04 PURPOSE. The purposes of this ordinance are to promote the development and preservation of traditional Dutch architecture in the Orange City Business District in a manner consistent with the history and life of Orange City and the Dutch theme of this Ordinance; to develop, maintain and promote the atmosphere and charm of a Dutch community in an integrated shopping, living, entertainment, and recreation environment for visitors and the people of Orange City; to promote the public welfare through the preservation of property values and the economic benefits to the City's economy flowing from the promotion of an architecture of the City as a tourist attraction; and to preserve and promote the quality of life for the citizens of the City. However, nothing herein shall be construed to prohibit owner's or occupant's of preexisting structures in the Orange City Business District from the preservation of such structures that have other historical or architectural significance in a manner consistent therewith; nor shall this exception be considered as qualifying any such pre-existing structure for financial assistance from the City under this Ordinance or any supplementary measure unless the owner or occupant seeks to comply with the Dutch Theme developed under this Ordinance.

2.05 APPLICATION OF THIS ORDINANCE.

1. The restrictions, regulations and controls on construction prescribed by this Ordinance in the Orange City Business District, whether consisting of maintenance, repair, alterations, modifications, or painting of any buildings, signs, graphics, visual displays, outdoor furniture or fixtures, shall apply as follows:
 - a. To any and all new construction of structures.
 - b. To pre-existing structures requiring a zoning permit (as required by the Orange City Zoning Ordinance) and for an application for financial assistance under this Ordinance has been granted of the application for financial assistance and its approval by the Council on recommendation by the Dutch Front Committee shall constitute a waiver of any "grandfather rights" and the structure shall thereafter be subject to the provisions of this Ordinance as though it was new construction.
 - c. Any structure occupied or to be occupied by any governmental body may be excluded from the regulations, restrictions and controls of this Ordinance by the Council.
 - d. Any pre-existing structure of historical or architectural significance which is or is to be developed in a manner consistent with such historical or architectural significance may be excluded by the Council.
2. Whenever a building or appurtenance or open space adjacent thereto is subject to this Ordinance per Title 3 Section 1.05, all such work performed or to be performed thereon shall be done in a manner conforming to and in sympathy with Dutch architecture.

3. Nothing herein shall be construed as an attempt to regiment architecture to the extent of prohibiting modern technological styling of materials which would be in sympathy with the purposes of this Ordinance.
4. The owner or occupant of any per-existing structure in the Orange City Business District which is to be re-constructed, repaired, altered, modified, painted or repainted including any sign, graphic, visual display, outdoor furniture, fixtures or other appurtenances thereto, whether a zoning permit is required or not, shall give a minimum of ten (10) days notice to the Dutch Front Committee, including such detailed plans and specifications as the Dutch Front Committee may reasonably request, before beginning work on the structure. The Dutch Front Committee may require one meeting with the owner or occupant to discuss the proposed plans and specifications which request shall be made in writing within seven (7) days of the receipt of notice satisfactory submission of plans and specifications, whichever is later. The owner or occupant shall participate in the meeting to the end that all development in the Orange City Business District may be consistent with the Dutch theme.

2.06 GENERAL REGULATIONS.

1. All activities, public or private, and all uses of property, public or private, within the Orange City Business District shall conform to the provisions of this Ordinance.

2.07 DUTCH FRONT COMMITTEE.

1. There is hereby created an advisory committee to be known as the Dutch Front Committee which shall consist of nine (9) members. The members of the committee shall choose from among themselves a person to act as chairperson. All members of the committee shall serve without pay. The Committee shall meet at as needed to carry out the intent of this Ordinance.
2. The Committee shall act in an advisory capacity only, and shall have no power to bind the City by contract or otherwise. It shall be the function of the Committee to advise the Council concerning all applications for zoning permits within the Orange City Business District and to act in an advisory capacity to the Council and the Mayor in all matters pertaining to the development of the District and more particularly to the restrictions, regulations and controls as set out in this Ordinance.

The Committee shall have the authority to inform the various departments of the City of violations of this Ordinance and recommend to such departments appropriate action, either under this Ordinance or such ordinances that are in force and effect at the time of violation; subject to appeal procedures set out hereafter.

The Committee shall have the authority to receive requests for the placement, repair or alterations, modification, painting or repainting or any sign, graphic, visual display, or outdoor furniture or fixtures; and to make recommendations to the various departments of the City concerning such requests.

2.08 ZONING PERMITS.

1. Whenever application is made for a zoning permit to construct, alter, modify, or repair any building within the Orange City Business District, the Zoning Compliance Officer shall refer said, together with the plans and specifications for the proposed work, to the Committee for its recommendation, if the applicant requests financial assistance from the City. All such applications for financial assistance shall include some evidence of muniment of title.

The Committee shall review the proposed plans and specifications, so far as they relate the proposed appearance, colors, texture, materials and architectural design of the exterior, including the front, side, rear and roof of said building, and also including all parts of the building that are in a visual line from all areas or any alterations, modifications, or repair, or any court yard, fence or dependency thereof. After due consideration, the Committee shall promptly report to the Zoning Compliance Officer its recommendations, including such changes, if any, as in the judgment of the Committee are reasonably necessary to comply with the requirements of this Ordinance. The Zoning Compliance Officer shall take no action of the application for a permit until the expiration of thirty (30) days or until he or she has received the recommendation of the Committee in writing, whichever occurs first.

The Committee shall also review the proposed plans and specifications, so far as they relate to the placement, alteration, modifications, repair of any signs, graphic, visual display, outdoor furniture or fixtures with respect to the appearance, colors, texture, materials and architectural and design factors of the sign, visual display, outdoor furniture or fixtures, including all parts of same that are visible from all areas.

2. The process for handling a Dutch Front application by an owner shall follow these steps:
 - A. The building owner consults an approved contractor/architect to draw a proposed front.
 - B. The proposal is submitted to the Committee and receives tentative approval.
 - C. Contractor prepares cost estimates for review.
 - D. Council agrees to a maximum amount of City matching funds.
 - E. The front is constructed as authorized.
 - F. Construction costs are invoiced for approval by the City.
 - G. The City issues a matching amount check up to the maximum amount.
 - H. City issues an additional design bonus check, if applicable.

3. The Committee shall provide the building owner with a list of contractors that are knowledgeable about "Historic Dutch" and are experienced with the Dutch Front improvement process. All interested contractors will be encouraged to educate themselves to provide the service and expertise for a successful Dutch Front Program.
4. The Committee shall provide the Council with pertinent information to enable the Council to fully consider applications for variances for both old and new buildings, as follows:
 - A. Owners indication of the amount willing to be spent on the building front.
 - B. To what extent has the building owner consulted with design/construction individuals to determine any possibilities within the parameters of private and matching funds.

(Editor's Note: Ordinance 734 was approved by City Council on February 7, 2005 and amended Section 2.08 by adding subsections (2),(3) & (4))

2.09 DENIAL OF PERMIT AND APPEAL FROM DENIAL OF PERMIT.

1. If the Committee recommends denial of a zoning permit, said recommendations must be delivered to the Zoning Compliance Officer who shall notify the applicant that said zoning permit shall not be issued and the reasons therefore. The Zoning Compliance Officer may proceed with issuance of a zoning permit upon amendment of the application to conform with the recommendations of the Committee.
2. Any person denied a zoning permit by the Zoning Compliance Officer pursuant to the recommendation of the Committee under the condition of this Ordinance may appeal said denial to the Council.
3. Some project areas may be exempted by the Council upon application of the owner or developer and such grant of exemption shall constitute waiver of funding. This procedure shall apply to all construction, reconstruction, maintenance and decorating of new or existing structures. This Ordinance is intended to give owners and developers flexibility while strongly encouraging the policies contained within the Dutch Front Ordinance.

2.10 FINANCIAL ASSISTANCE.

1. The Council by separate measure may provide for financial assistance to owners or occupants of new or pre-existing structures within the Orange City Business District, which shall be available upon such terms, and conditions as may be developed thereunder in conjunction with the Dutch Front Committee.

2. All applications for funding of Dutch Front projects shall be submitted to the Committee. Funding of any project will be dependent upon available funds and budget decisions by the Council, which considers said applications.
3. The Council shall pay up to \$500.00 per foot of frontage or a 50% match of actual exterior costs for approved "Historic Dutch" treatments completed, whichever is less.
4. The Orange City business district Dutch Front Program shall be available to building owners until January 1, 2016.
5. The City will, at its discretion, grant a design bonus of 10% of the matching fund portion, per project, to reimburse architects/contractors design expenses, upon showing that the front has been completed as designed and approved.
6. The City shall provide up to \$500.00 of actual cost for design services when a building owner meets with an "approved" architect/contractor to determine whether new or remodeled fronts can be enhanced as "Dutch" either entirely or with appropriate accents or treatments.

(Editor's Note: Ordinance 734 was approved by City Council on February 7, 2005 and amended Section 2.10 by adding subsections (3),(4), (5) & (6))

2.11 VIOLATION AND PENALTY.

1. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this Ordinance, upon conviction shall be fined not more than two hundred dollars (\$200.00) for each offense. Each day the violation is permitted to exist constitutes a separate offense. Proceeding with any construction work or repair work requiring a permit without applying for a permit shall be considered an offense and punishable by the provisions of this Section.

All departments, officials and employees of the City of Orange City, Iowa, who are vested with the duty or authority to issue permits or licenses for any use, structure or purpose if the same would not conform to the provisions of this Ordinance.

TITLE 4 - BUSINESS REGULATIONS

CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 PURPOSE. The purpose of this chapter is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, morals and general welfare of this community.
- 1.02 DEFINITIONS. Where state law defines words and phrases used in this chapter, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:
1. "Person of Good Moral Character" shall mean any person who meets all of the following requirements:
(Code of Iowa, Sec. 123.3(34))
 - a. Has such financial standing and good reputation as will satisfy the commission and the administrator that he/she will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his/her operations under state law. The administrator shall not require the person to post a bond to meet the requirements of this paragraph;
 - b. Does not possess a federal gambling stamp;
 - c. Is not prohibited by the Code of Iowa from obtaining a liquor license or beer permit;
(Code of Iowa, Sec. 123.40)
 - d. Are a Citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation;
 - e. Has not been convicted of a felony. However, if his or her conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his/her rights of citizenship have been restored by the Governor, the administrator may determine that he or she is a person of good moral character notwithstanding such conviction.
 - f. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, administrators and partners of such person, and to any person who directly or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this provision, an individual and his/her spouse shall be regarded as one person.

2. "Club" shall mean any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.
(Code of Iowa, Sec. 123.3(11))
 3. "Commercial establishment" shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the ordinances of the city.
(Code of Iowa, Sec. 123.3(12))
 4. "Grocery store" shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises and conform to the standards and specifications of the State of Iowa Alcoholic Beverage Division.
(Code of Iowa, Sec. 123.3(18))
 5. "Pharmacy" shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.
(Code of Iowa, Sec. 123.3(35))
 6. "Hotel or Motel" shall mean a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.
(Code of Iowa, Sec. 123.3(20))
 7. "Legal age" shall mean twenty-one (21) years of age or more.
(Code of Iowa, Sec. 123.3(24))
 8. "Administrator" shall mean the administrator of the division.
(Code of Iowa, Sec. 123.3(1))
 9. "Division" or "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.
(Code of Iowa, Sec. 123.3(16))
- 1.03 LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

1.04 PERSONS UNDER LEGAL AGE

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

(Code of Iowa, Sec. 123.47 (1))

2. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for the beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine and beer during the regular course of the person's employment by a liquor control licensee, or wine beer permittee under State laws.

(Code of Iowa, Sec. 123.47 (2))

3. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(Code of Iowa, Sec. 123.47 (3))

- a. A simple misdemeanor punishable as a scheduled violation under Code of Iowa section 805.8C, subsection 7.
- b. A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.
- c. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

- 1.05 PUBLIC CONSUMPTION OR INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).

(Code of Iowa, Sec. 123.46)

- 1.06 OPEN CONTAINERS IN A MOTOR VEHICLE. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "*Passenger area*" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

(Code of Iowa, Sec. 321.284)

- 1.07 OPEN CONTAINERS IN A MOTOR VEHICLE - PASSENGER A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "*Passenger area*" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.

(Code of Iowa, Sec. 321.284A)

CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

- 2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and state law.
(Code of Iowa, Sec. 123.2)
- 2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be neither alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his or her discretion allow the executor or administrator of a permittee or licensee to operate the business of the descendant for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use the same.
(Code of Iowa, Sec. 123.38)
- 2.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:
1. CLASS "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.
(Code of Iowa, Sec. 123.124 & 123.131)
 2. CLASS "C". A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.
(Code of Iowa, Sec. 123.124 & 123.132)
- 2.04 WINE PERMITS - CLASSES. Wine permits shall be classed as follows:
1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.
(Code of Iowa, 123.173 & 123.177)
 2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.
(Code of Iowa, 123.173 & 123.178)

2.05 LIQUOR LICENSES - CLASSES. Liquor control licenses shall be classed as follows:

1. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.
(Code of Iowa, Section 123.30(3)(a))
2. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises.
(Code of Iowa, Sec. 123.30(3)(b))
3. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.
(Code of Iowa, Sec. 123.30(3)(c))
4. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other liquor control licenses, wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license. The division may issue a Class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and

no other applicant for a class "E" license has been made within the previous twelve consecutive months.

(Code of Iowa, Section 123.30(3)(e))

- 2.06 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit or wine permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by the administrator.

(Code of Iowa, Sec. 123.31)

- 2.07 BOND FILED. The necessary fee and bond shall accompany the application, if required, and be filed with the council for approval or disapproval.

(Code of Iowa, Sec. 123.32 & 123.127)

1. LIQUOR CONTROL LICENSE. Upon posting bond in the penal sum of \$5,000.00, and conditioned upon the payment of all taxes payable to the state under the provisions of the Iowa beer and liquor control act and compliance with all provisions of the act.

(Code of Iowa, Sec. 123.30(1))

2. BEER PERMIT AND WINE PERMIT. With class "B" and "C" beer permits, or class "A" and "B" wine permits, upon posting bond in the penal sum of \$500.00, and conditioned upon the faithful observance of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.128 & 123.129)

- 2.08 CONDITIONS FOR APPROVAL. No liquor control license or beer or wine permit shall be approved unless:

1. CHARACTER OF APPLICANT. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, Sec. 123.30(1))

2. RIGHT OF ENTRY. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.

(Code of Iowa, Sec. 123.30(1))

3. ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS. No interior access or residential or sleeping quarters is permitted or maintained unless the administrator in the form of a living quarter's permit grants permission.

(Code of Iowa, Sec. 123.30(2))

4. LOCATION OF PREMISES. The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.

(Code of Iowa, Sec 123.128(1b))

5. SEATING CAPACITY. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
(Code of Iowa, Sec. 123.128(1b))
6. CONFORM TO APPLICABLE LAWS. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
(Code of Iowa, Sec. 123.30(2) & 123.127(1))
- 2.09 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.
(Code of Iowa, Sec. 123.92)
- 2.10 SEPARATE LOCATIONS. Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.
(Code of Iowa, Sec. 123.140)
- 2.11 INVESTIGATION. Upon receipt of an original application for a liquor license or beer or wine permit by the Clerk, it shall be forwarded to any peace officer who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit.
(Code of Iowa, Sec. 123.30(1))
- (Editor's Note: Section 2.11 was amended at time of 2008 Codification)
- 2.12 LICENSE AND PERMIT FEES. All applicants to obtain a liquor license shall submit any and all required fees with said application as required by the laws and provisions of the State of Iowa.
- 2.13 SURCHARGE. There is imposed a surcharge on the fee for each class "A", "B" or "C" liquor license equal to 30% of the scheduled license fee to be collected and deposited as provided in the Code of Iowa.
(Code of Iowa, Sec. 123.36(9))
- 2.14 SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law.
(Code of Iowa, Sec. 123.34(1))
- 2.15 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the division for such further action as is provided by law.
(Code of Iowa, Sec. 123.32(2))

2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.
(Code of Iowa, Sec. 123.34(1))

2.17 REFUNDS. Any such licensee or permittee, or his or her executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his or her creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

1. BEFORE THREE MONTH PERIOD. If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
2. SIX MONTH PERIOD. If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amounts of the fee.
3. SIX - NINE MONTH PERIOD. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
4. AFTER NINE MONTH PERIOD. No refund shall be made, however, for liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
5. SUNDAY SALES. No refund will be given on the Sunday Sales portion of a license or permit fee.
6. COMPLAINT FILED. No refund shall be made to any licensee or permittee, upon the surrender of his or her license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him/her with a violation of this chapter or provisions of the Iowa beer and liquor control act.
7. HEARING ON COMPLAINT. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his or her license or permit, to receive a refund as herein provided. But if his or her license or permit is revoked or suspended upon such hearing he or she shall not be eligible for the refund of any portion of his or her license or permit fee.
8. SEASONAL LICENSES OR PERMITS. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, Sec. 123.38)

- 2.18 TRANSFERS. The 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 such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of twenty-five (\$25.00) dollars.
(Code of Iowa, Sec. 123.38)
- 2.19 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer or wine permit nor his/her agents or employees shall do any of the following:
1. INTOXICATED PERSONS. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.
(Code of Iowa, Sec. 123.49(1))
 2. HOURS OF OPERATION. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.
(Code of Iowa, Sec. 123.49(2b))
 3. CREDIT SALES. Sell alcoholic liquor or beer to any person on credit, except with bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.
(Code of Iowa, Sec. 123.49(2c))
 4. EMPLOYMENT OF MINORS. Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
(Code of Iowa, Sec. 123.49(2f))
 5. SELLING TO MINORS. Sell, give or otherwise supply any alcoholic beverage or beer to any person knowing or having reasonable cause to believe the person to be under legal age, or permit any person knowing or having reasonable cause to believe the person to be under legal age, to consume any alcoholic beverage or beer.
(Code of Iowa, Sec. 123.49(2h))
 6. MIXING OF ALCOHOLIC BEVERAGE. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his or her place of business.
(Code of Iowa, Sec. 123.49(2i))

7. SOLICITING AND DISORDERLY CONDUCT. Knowingly permit any gambling, except in accordance with Code of Iowa Chapter 99B, 99D, 99F, or 99G, or Knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49(2a))

8. BEER BRAND SIGNS PROHIBITED. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.

(Code of Iowa, Sec. 123.51)

9. NUDE CONDUCT PROHIBITED. Cause, permit, procure, counsel or assist any person who is acting as a waiter, waitress, host, hostess, dancer, or entertainer on the licensed premises to:

- a. Expose his or her genitals, pubic hair, buttocks, perineum, anus region, or pubic hair region; or
- b. Expose or wear any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anus region, or pubic hair region; or
- c. Expose any portion of the female breast at or below the nipple thereof.

For purposes of this subsection a person shall be deemed a waiter, waitress, host, hostess, dancer, or entertainer if such person acts in that capacity without regard to whether such person is paid any compensation by the liquor control licensee or beer permittee, his or her agent or employee.

(Code of Iowa, Sec. 728.5)

2.20 PENALTIES.

1. MISDEMEANOR. Any person who violates any of the provisions of Section 2.20 of this Chapter or Code of Iowa Section 123.49(2)(h), shall be guilty of a simple misdemeanor and upon conviction, be subject to a fine of not less five hundred dollars (\$500.00) and/or imprisonment not to exceed thirty (30) days. A person who violates Code of Iowa Section 123.49, subsection 2, paragraph “h”, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 2.

2. MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the City Council in accordance with the following:

- a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under Code of Iowa, Section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.

(Code of Iowa, Sec. 123.50(3a))

- b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars (\$1,500).

(Code of Iowa, Sec. 123.50(3b))

- c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five dollars (\$1,500).

(Code of Iowa, Sec. 123.50(3c))

- d. A fourth violation within three years shall result in revocation of the license or permit.

(Code of Iowa, Sec. 123.50(3d))

- e. For purposes of this subsection:

- (1) The date of any violation shall be used in determining the period between violations.

- (2) Suspension shall be limited to the specific license or permit for the premises found in violation.

- (3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.

(Code of Iowa, Sec. 123.50(3e))

- 3. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.20 shall, subject to section 2.22, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

- 2.22 **OPTIONAL SUSPENSION OR REVOCATION.** A license or permit issued under Code of Iowa, Chapter 123 may be suspended or revoked, or a civil penalty in the amount of \$1,000.00 may be imposed on the license or permit holder by the City for any of the listed causes listed in this section below. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the Council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the Council for any of the following causes listed below.

(Code of Iowa, Sec. 123.39)

1. MISREPRESENTATION. Misrepresentation of any material fact in the application for such license or permit.
(Code of Iowa, Sec. 123.39(1))
2. VIOLATIONS. Violations of any of the provisions of the Iowa beer and liquor control act.
(Code of Iowa, Sec. 123.39(2))
3. CHANGE IN OWNERSHIP. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.
(Code of Iowa, Sec. 123.39(3))
4. ORIGINAL DISQUALIFICATIONS. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.
(Code of Iowa, Sec. 123.39(4))
5. SALE OR TRANSFER. Any sale, hypothecation or transfer of such license or permit.
(Code of Iowa, Sec. 123.39(5))
6. PAYMENT OF TAXES. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.
(Code of Iowa, Sec. 123.39(6))

A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section.

If the cause for suspension is a first offense violation of section Code of Iowa, Section 123.49, subsection 2, paragraph "h", the City shall impose a civil penalty in the amount of five hundred dollars in lieu of suspension of the license or permit.

2.22 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. SALE TO MINORS OR "SPIKING". If any licensee, beer or wine permittee, or employee of such licensee or permittee is convicted of a violation of section 2.20(5) or a retail beer permittee is convicted of a violation of subsection 6 of said section, the city shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:
 - a. Upon a first conviction, the violator's liquor control license or beer or wine permit shall be suspended for a period of fourteen (14) days. For a first time offender of Iowa Code Section 123.49(2)(9), an alternative penalty can be the assessment of a fine in the amount of \$300.00.
(Code of Iowa, Sec. 123.50(3a))

- b. Upon a second conviction within a period of two (2) years, the violator's liquor control license or beer or wine permit shall be suspended for a period of thirty (30) days.
(Code of Iowa, Sec. 123.50(3b))
 - c. Upon a third conviction within a period of five (5) years, the violator's liquor control license or beer or wine permit shall be suspended for a period of sixty (60) days.
(Code of Iowa, Sec. 123.50(3c))
 - d. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license or beer or wine permit shall be revoked.
(Code of Iowa, Sec. 123.50(3d))
- 2. GAMBLING, SOLICITATION. If any liquor control licensee is convicted of any violation of Chapter 99 or 99B of the Code of Iowa, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the division.
(Code of Iowa, Sec. 123.50(2))
- 2.23 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.
- 2.24 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A city may appeal a decision of the hearing board as provided by statute.
(Code of Iowa, Sec. 123.32(7 & 8))
- 2.25 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one (1) year.
(Code of Iowa, Sec. 123.40)

2.26 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner:

1. NOTICE. The permit holder, and the surety on his/her bond, shall be served with written notice containing a copy of the complaint against the permit holder, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
2. HEARING. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his/her authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. RIGHTS OF PERMIT HOLDER. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his/her own behalf, and to cross-examine adverse witnesses.
4. EVIDENCE. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. CRIMINAL CHARGES. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. RECORD AND DETERMINATION. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

CHAPTER 2: CIGARETTE PERMITS

ARTICLE 3 - GENERAL PROVISIONS

3.01 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.
(Code of Iowa, Sec. 453A.1(3))
2. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes irrespective of quantity or amount or the number of sales.
(Code of Iowa, Sec. 453.A1(21))
3. "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the State of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.
(Code of Iowa, Sec. 453A.1(19))
4. "Tobacco Products" means the following: cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in pipe or otherwise, or both chewing and smoking, but does not mean cigarettes.
(Code of Iowa, Sec. 453A.1(26))

3.02 PERMIT REQUIRED. No retailer shall sell, distribute, or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor. (Code of Iowa, Sec. 453A.13)

3.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3.04 shall be filed with the Clerk. Renewal applications shall be filed at least 5 days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and special council meeting is called to act on the application the costs of such special meeting shall be paid by the applicant. (Code of Iowa, Sec. 453A.13)

- 3.04 FEES. All applicants to obtain a cigarette permit shall submit any and all required fees with said application as required by the laws and provisions of the State of Iowa.
(Code of Iowa, Sec. 453A.13(3))

- 3.05 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

Upon proper application, approval by Council and payment of the required fee, a permit shall be issued to the applicant. Each permit issued shall clearly describe the place of business for which it is issued

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

- 3.06 DISPLAY. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.

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

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

- 3.08 EXPIRATION. Permits expire on June 30 of each year.

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

- 3.09 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city as provided by the laws and provisions of the State of Iowa.

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

- 3.10 PERSONS UNDER THE LEGAL AGE. No person shall sell, give or otherwise supply tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine.

(Code of Iowa, Sec. 453A.2 & 453A.36(6))

3.11 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violated the provisions of 3.10 of this Chapter, the Iowa Department of Public Revenue or Council, or the Iowa department of public health following transfer of the matter to the Iowa department of Public Health pursuant to Iowa Code Section 453A.2, subsection 6, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 of Code of Iowa 453A.22 as follows:

- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.
- b. For a second violation within a period of two years, the retailer's permit shall be suspended for a period of thirty days or assessed a civil penalty in the amount \$1,500.00.
- c. For a third violation within a period of three years, the retailer's permit shall be suspended for a period of thirty (30) days and assessed a civil penalty in the amount of \$1,500.00.
- d. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty days.
- e. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard

(Code of Iowa, 453A.22(1))

3.12 RENEWAL AFTER REVOCATION. Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

(Code of Iowa, Sec. 453A.22(3))

CHAPTER 3: REGISTRATION

ARTICLE 4 - GENERAL PROVISIONS

- 4.01 PURPOSE. The purpose of this chapter is to assure that in the conduct of the activities, vocations, public amusements, and provisions licensed and regulated by this chapter, the public health, safety and welfare will be protected and maintained.
- 4.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "House mover" means any person who undertakes to move a building or similar structure upon or across the public streets, alleys, walks or property.
 2. "Junk dealer" means 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.
 3. "Scavenger" means any person who transports upon the public streets, alleys, sidewalks or property any refuse except refuse directly from his or her own property.
 4. "Literature" means any notice, poster, placard, announcement, or advertisement except notices required by law.
 5. "Excavator" means any person who undertakes to dig, hollow out, unearth, form holes or cavities in the soil for the purpose of improving or altering the same, including but not limited to basements, electrical or plumbing contractors, or others whose digging activities, either mechanical or manual, may endanger existing underground utilities service systems such as sewer, water, electrical, gas, or telephone installations.
- 4.03 LICENSE REQUIRED. It shall be unlawful for any person to engage in any activity, vocation, profession or public amusement regulated by this chapter without a valid license from the city of Orange City.
- 4.04 APPLICATION. Application for any license under this chapter 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 his or her local business establishment, and the nature of his or her business.
 2. If the applicant is not the owner of the place 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.
- 4.05 FEE PAYMENT. All fees required by this chapter shall be paid to the City Clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.
- 4.06 ISSUANCE. If the City Clerk finds that all of the conditions prescribed by this article for the issuance of a license have been satisfied, 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.
- 4.07 FEES AND DURATION. The fee and duration of a license shall be:
 1. ANNUAL OR DAILY LICENSE. An applicant may apply for an annual or a daily license. The annual license shall be valid for one year after the date on which it is issued. The daily license shall be valid for only one twenty-four (24) hour period, but the applicant may apply for and receive six (6) daily licenses at one time. However, no daily license shall be issued more than three (3) days before the date for which the license is valid.
 2. FEE. The fees for licenses shall be:

A.	Daily license	\$ 2.00 per day
B.	Annual license	\$10.00 per year
- 4.08 POWER TO INSPECT AND INVESTIGATE. Upon receipt of an application for a license, the City Clerk shall forward it immediately to the appropriate City personnel, 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. The City Clerk shall notify the county or local health officer, the building inspector and the Fire Chief immediately, and they shall inspect the premises to determine whether the applicant meets the standards of the applicable municipal ordinances and state statutes. These officials shall submit written reports of the results of their investigation within seven (7) days after the Clerk received the application. No license shall be issued until these reports have been submitted to the City Clerk.
- 4.09 REVOCATION OF LICENSE. After giving a licensee seven (7) days notice and after a hearing, the Clerk may revoke any license issued under this ordinance for the following reasons:
 1. FRAUDULENT STATEMENTS. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 2. VIOLATION OF CHAPTER. The licensee has violated this chapter or has otherwise conducted his/her business in an unlawful manner.

3. **DANGER TO PUBLIC HEALTH AND SAFETY.** The licensee has conducted his/her 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.

- 4.10 **APPEAL.** If the City Clerk revokes or refuses to issue a license, the Clerk shall endorse his or her reasons upon the application. The applicant shall have a right to a hearing before the council at its next regular meeting. 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.
- 4.11 **EFFECT OF REVOCATION.** Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of revocation.
- 4.12 **REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee the person has paid if the person surrenders his or her license before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least one dollar of the original fee shall be retained by the city to cover administrative costs.
- 4.13 **TRANSFER PROHIBITED.** In no case shall a license issued under this chapter be transferred to another person or be used for a purpose other than that for which it was issued.
- 4.14 **DISPLAY.** Every person who is issued a license under the provisions of this chapter shall display the license in a conspicuous place on the premises on which the business is being conducted.
- 4.15 **EXEMPTIONS.** This chapter shall not be construed to require a license of each employee or agent or one engaged in a licensed occupation. Only the owner, manager or agent in charge of such an occupation need possess a license.

CHAPTER 3: REGISTRATION

ARTICLE 5 - SPECIAL REQUIREMENTS

5.01 COMPLIANCE. Every person who is granted a license under the terms of this chapter shall comply with the following regulations that apply in his or her case.

5.02 HOUSE MOVERS. The following shall apply to the license for house movers:

1. APPLICATION. An application for house mover's license shall describe the present location and the future site of the building or similar structure to be moved. Such application shall be made at least forty-eight hours prior to the proposed time for moving said structure.
2. BOND. The applicant shall post with the City Clerk a penal bond, certified check, or other security as required by the City Clerk in the amount of one thousand dollars (\$1,000.00). The bond shall guarantee the licensee's payment for any damage done to the city or to the public property in the course of moving the building or similar structure.
3. INSURANCE. The applicant shall show evidence that he/she is insured for not less than \$100,000 for personal injuries and \$25,000 for property damage. A penal bond for the same sum of money may be posted with the clerk in lieu of the insurance policy. The sureties on the bond shall be approved by the City Clerk and the bond shall guarantee the licensee's payment for personal injuries or property damage caused by the licensee or the licensee's agents or employees in the course of the moving operations.
4. ROUTE. The route shall be determined by the Electric Supervisor and the Public Works Director.
5. FLAGMEN AND WARNING SIGNS. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure, or make arrangements with the police department to have a police escort. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the licensee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

(Editor's Note: Section 5.02 was amended at time of 2008 Codification.)

5.03 LITERATURE DISTRIBUTOR. The following shall apply to the license for literature distributors:

1. APPLICATION. An application for a literature distributor's license shall contain a description of the boundaries of the areas of the city in which the distribution of literature is to be made. The license shall limit distribution of materials in the city to these areas.
2. PROHIBITED LOCATIONS. Literature distributors shall not attach literature to any tree, pole, sidewalk, building or other structure.
3. MANNER OF DISTRIBUTION. Literature shall not be distributed in such a manner that they may be blown about or scattered.
4. SIZE OF LITERATURE. Literature larger than eight by ten inches in size shall not be handed to persons on the sidewalks or streets or public property or attached to automobiles parked on any streets, alleys or public property.

5.04 EXCAVATORS. The following shall apply to the license for excavators:

1. APPLICATION. An application for excavator's license shall describe the proposed location of the intended excavation, and in the case of annual licenses, the applicant shall consult with the City Clerk with respect to each proposed excavation.
2. BOND. The applicant shall post security in the form and in the amount required by the City Clerk to guarantee the applicant or licensee's payment for any damage done to the underground installations which may exist on the premises proposed to be improved or altered by such excavations.
3. INVESTIGATION BEFORE WORK. Said excavator shall, prior to beginning work, make investigation and search for all underground installation and shall receive property authority from all interested parties before commencing work. Any damage occurring by reason of such excavations shall be promptly reported to the City Clerk and all other interested parties.

CHAPTER 3: REGISTRATION

ARTICLE 6 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

6.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "Peddler" shall mean any person carrying goods or merchandise from house-to-house or upon the public street.
2. "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" shall mean any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer shall not exempt any person, firm or corporation from being considered a transient merchant.

6.02 REGISTRATION REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first registering with the City Clerk as herein provided shall be in violation of this ordinance.

6.03 EXEMPTIONS. The following groups or persons shall be exempt from the provisions:

1. Newspapers. News boys and girls
2. Club members. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America, the Orange City Volunteer Fire Department, and similar organizations.
3. Farmers. Farmers who offer for sale products of their own raising.
4. Schools/Churches. Persons representing any school or religious institution located within the corporate boundaries of the City of Orange City.
5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.

6.04 RELIGIOUS AND CHARITABLE ORGANIZATIONS EXEMPT. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Section 6.05 - 6.13 of this ordinance. All such organizations shall be required to submit in writing to the City Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor for his or her efforts and the amount thereof. If the City Clerk shall find that the organization is a bona fide charity or religious organization he or she shall issue, free of charge, a license containing the above information to the applicant.

(State of Iowa v. Garbroski, III Iowa 496, 82 N.W. 959 (1900))

6.05 APPLICATION. An application in writing shall be filed with the City Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, and such other information as may be helpful. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. A fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

(Editor's Note: Section 6.05 was amended at time of 2008 Codification.)

6.06 BOND REQUIRED. Reserved for future use.

6.07 FEES. Reserved for future use.

6.08 DISPLAY. Reserved for future use.

6.09 REGISTRATION NOT TRANSFERABLE. The registration of any person as provided by this chapter shall not be transferable in any situation and is to be applicable only to the person filing the application and so registered.

6.10 REVOCATION. The city council, after notice and hearing, may revoke any registration issued under this chapter where the registree in the application for the license or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this chapter or has otherwise conducted his or her business in an unlawful manner, or the licensee has conducted his/her business in such a manner as to endanger the public welfare, safety, order or morals.

(Editor's Note: Section 6.10 was amended at time of 2008 Codification.)

6.11 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the state law, section 82.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to which he/she sells a product or service and, comply with the other requirements of the law.

6.12 TIME RESTRICTION. All peddlers, transient merchants and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight (8:00) a.m. and eight (8:00) p.m.

(Editor's Note: Section 6.12 was added at time of 2008 Codification)

CHAPTER 4: BUSINESS REGULATIONS

ARTICLE 7 – HOTEL AND MOTEL TAX

7.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings in this section:

1. "Hotel" and "Motel" shall be deemed to mean any hotel, motel, inn, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals; except the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges in the State of Iowa and the guests of a religious institution if the property is exempt under section 427.1, subsection 8 of the Code of Iowa, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.
2. "Renting" and "rent" shall include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use.

7.02 TAX RATE. A tax is hereby imposed upon the gross receipts from the renting of any and all rooms, apartments or sleeping quarters in any hotel or motel as defined in this chapter at the rate of seven percent of such gross receipts derived from the renting of a room, apartment or sleeping quarter while rented by the same person for a period of not more than 31 consecutive days.

7.03 EFFECTIVE DATE. The tax herein above established shall be imposed after the election of November 5, 2013 at which 69.54% of those voting on the question favored the imposition of such tax. The tax shall be imposed upon the 1st day of January 1, 2014.

7.04 PAYMENT OF TAX. Such tax shall be paid as is provided in Chapter 423A, Code of Iowa, 2013, as amended, and the proceeds of such tax shall be used for the purposes stated in subsection 1 thereof, as follows:

1. The revenue derived from any hotel and motel tax authorized by this chapter shall be used as follows:
 - a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or

other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

- b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.
- c. Any city or county which levies and collects the hotel and motel tax authorized by this chapter may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph 'a' of this subsection. Any revenue pledged to the payment of such bonds may be credited to the spending requirement of paragraph 'a' of this subsection.

(Editor's Note: Ordinance 728 was approved by City Council on September 16, 2004 establishing the Imposition of a Hotel & Motel Tax Rate. By a public referendum of the voters on November 5, 2013, the tax was increased from 5% to a new rate of 7%.)

CHAPTER 4: BUSINESS REGULATIONS

ARTICLE 8 – PROPERTY TAX EXEMPTION FOR SPECULATIVE SHELL BUILDINGS

8.01 PURPOSE. The purpose of this Article is to provide an exemption from property taxation for speculative shell buildings by community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities in accordance with Section 427.1 of the Code of Iowa to encourage the development, investment, and employment of certain businesses and industries within the City of Orange City.

8.02 DEFINITIONS. For use in this chapter, the following definitions apply:

1. “Community development organization” means a City organization or a multi-community group formed for one or more of the following purposes:
 - a. To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, or region and its citizens.
 - b. To encourage and assist in the location of new business and industry.
 - c. To rehabilitate and assist existing business and industry.
 - d. To stimulate and assist in the expansion of business activity.

For purposes of this definition, a community development organization must have at least fifteen (15) members with representation from the following: government at the level or levels corresponding to the community development organization’s area of operation; a private sector lending institution; a community organization in the area; business in the area; and private citizens in the community.

2. "New construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city or county board of supervisors of the county.
3. "Speculative shell building" means a building or structure owned and constructed or reconstructed by a community development organization, a not-for-profit cooperative association under chapter 499, or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the

employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

8.03 ELIGIBILITY FOR TAX EXEMPTION.

1. The new construction of a shell building by a community development organization, a not-for-profit cooperative association under chapter 499, or a for-profit entity for speculative purposes is eligible for property tax exemption. The exemption shall be for one of the following:
 - a. The value added by new construction of a shell building or addition to an existing building or structure.
 - b. The value of an existing building being reconstructed or renovated, and the value of the land on which the building is located, if the reconstruction or renovation constitutes complete replacement or refitting of the existing building or structure.
2. If the exemption is for a project described in Subsection 1.a. above, the exemption shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the addition to an existing building first adds value. If the exemption is for a project described in Subsection 1.b. above, the exemption shall be effective for the assessment year following the assessment year in which the project commences. An exemption allowed under this section shall be allowed for all subsequent years until the property is leased or sold, but in no event longer than 7 years, or until the exemption is terminated by ordinance of the City Council.
3. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. However, an exemption shall not be granted to a speculative shell building of a not-for-profit cooperative association under chapter 499, or a for-profit entity, if the building is used by the cooperative association or for-profit entity, or a subsidiary or majority owners thereof, for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold, and a proportionate share of the land on which it is located, if applicable, shall not be entitled to an exemption under this section for subsequent years. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of Section 427B.1 of the Code of Iowa if used for purposes set forth in Section 427B.1.

If the ordinance authorizing the exemption is repealed, all existing exemptions continue until their expiration and any projects having received prior approval for exemption for new construction are to be granted an exemption upon completion of the project.

8.04 APPLICATION.

1. If the speculative shell building project is a project described in Subsection 1.a. of Section 8.03, an application shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation, pursuant to Section 427B.4 of the Code of Iowa.
2. If the speculative shell building project is a project described in Subsection 2.a. of Section 8.03, an application shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the project commences, pursuant to Section 427.1(27) of the Code of Iowa.
3. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of Iowa Code section 427B. 1. Prior approval does not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council to approve or reject.

(Editor's Note: Ordinance 783 was passed and approved by City Council on September 15, 2014 and established Article 8, Tax Exemption for Speculative Buildings.)

TITLE 5 - FIRE REGULATIONS

CHAPTER 1: FIRE DEPARTMENT

ARTICLE 1 - FIRE DEPARTMENT

- 1.01 PURPOSE. A volunteer fire department is established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.
- 1.02 CONTROL BY COUNCIL. The Fire Department shall be under the control and supervision of the City Council of Orange City.
- 1.03 QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:
1. RESIDENT CITIZEN. Is a citizen of the United States.
 2. AGE. Is at least eighteen (18) years of age.
 3. DRIVER'S LICENSE. Has a current active Iowa driver's license.
 4. ALCOHOL AND DRUGS. Is not a drug addict or substance abuser.
 5. CHARACTER. Is a good moral character and has not been convicted of a felony.
- 1.04 VACANCIES. All vacancies in the Fire Department shall be filled by the members of the Fire Department by election, but the election of all new members shall be subject to the approval of the Council.
- 1.05 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.
- 1.06 ELECTION OF OFFICERS. The department shall elect a Chief, whose appointment is subject to the approval of the Mayor, and such other officers as necessary. In case of absence of the Chief, the officer next in rank shall be in charge and have and exercise all the powers of Chief.
- 1.07 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for workmen's compensation and against liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract.
- 1.08 LIABILITY INSURANCE. The Council shall contract to insure against liability of the city or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the city.

(Code of Iowa, Sec. 670.2 & 517A)

- 1.09 FIRES OUTSIDE THE CITY. The department shall answer calls to fires and other emergencies outside the city limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the city limits.
(Code of Iowa, Sec. 364.4(2 & 3))
- 1.10 MUTUAL AID. Subject to approval by resolution of the council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.
(Code of Iowa, Sec. 364.4(2 & 3))
- 1.11 RULES BY COUNCIL. The City Council may adopt such rules and regulations, in regard to the Fire Department, not inconsistent with the ordinances, or the laws of the State, as the Council shall deem advisable.
- 1.12 RULES BY FIRE DEPARTMENT. The Fire Department may adopt such constitution, rules, and regulations, not inconsistent with the ordinances or the laws of the State, as the members deem advisable. Such constitution, rules, and regulations, or changes in such constitution, rules and regulations, before being effective, shall be approved by the Council.
- 1.13 DUTIES OF THE FIRE DEPARTMENT. The Fire Department shall be under the control and direction of the Chief of the Fire Department or, in his/her absence shall be under the control and direction of the next ranking officer. Upon an alarm of fire the members of the Fire Department shall proceed immediately to the place of fire, with the necessary apparatus in their charge, and there work and manage the same under the direction of the Chief or his/her assistants, and use such apparatus, in the most effective manner, until the fire is extinguished and shall not move therefrom except by permission of the officer in command, and on such permission they shall return the fire apparatus to its place of occupancy.
- 1.14 LOCATION OF FIRE HYDRANTS. Members of the Fire Department shall commit to memory the location of all fire hydrants, and be familiar with the name and location of the streets and avenues of the municipality.
- 1.15 FREE SERVICE. The Fire Department and the fire trucks belonging to the municipality shall give service to all fires within the corporate limits and to all members of the community in surrounding taxed townships as established by prior agreement.
- 1.16 SERVICE FEES. For answering all calls outside the municipal corporation and outside the townships which by agreement contribute tax monies for fire protection, a service fee may be charged in an amount determined by the Department, subject to Council approval. This service charge or fee for answering fire call shall be payable by the owner of the property to which a call directs the Department to proceed for the purpose of fighting a fire.
- 1.17 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

- 1.18 ENFORCEMENT; FIRE MARSHAL. The Chief of the fire department shall be the city fire marshal, who has the power and duty to conduct inspections and issue orders to enforce fire safety and the regulations adopted by this chapter, either by himself or through a designated deputy, named by the Chief from among the membership of the volunteer fire department, who is trained in firemanship and knowledgeable of fire prevention measures. The Fire Chief has concurrent jurisdiction to enforce the state fire marshal's rules adopted in this chapter to enhance the public effort to prevent fires and explosions.
- 1.19 EXIT WAYS MAINTAINED. The provisions of state law on exits shall be reinforced by the city fire marshal, and it shall be the duty of the owner, agent or occupier of property, severally and collectively, to maintain the exits required by state law or by any city building code free from obstruction caused by storage of materials, placement of furniture, or by improper barring of exit doors. Whenever a condition which obstructs the required exits or unsafely prevents emergency use of exit doors, hallways, or passages to such doors, whether in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, retail stores, warehouses, hotels, motels, or multi-family dwellings with three or more dwelling units, the fire marshal shall order the condition remedied. The owner or occupant of the premises, upon receiving such an order in writing, shall make such corrections as have been so ordered by the authorized official within a reasonable time as set in the written order and the degree of imminent danger. The regulations of the state fire marshal, IAC 661, Chapter 5, which apply to exits and fire escapes, are adopted by reference.
- 1.20 FIRE EXTINGUISHERS. The provisions of state law requiring fire extinguishers in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, hotels, motels, or multi-family dwellings with three or more dwelling units are adopted by reference and the city fire marshal shall enforce their requirements as they appear in IAC 661, Chapter 5. Portable fire extinguishers shall also be provided in retail stores, warehouses, and industrial establishments, with not less than one (1) such extinguisher on each floor of a building and located so that no person will have to travel more than seventy-five (75) feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in a building and may be required by the city fire marshal in areas that constitute a special hazard. The type and size of portable fire extinguishers shall be determined by the city fire marshal for the named commercial and industrial buildings in accordance with best practice as advised by the state fire marshal and the insurance industry.
- 1.21 STORAGE OF HAZARDOUS SUBSTANCES.
1. EXPLOSIVES. No person shall store explosives, as defined by state law and rules promulgated thereunder, classified as Class A, Class B, or Class C explosives by the Federal Department of Transportation, within the fire limits without a permit from the city fire marshal except for quantities of twenty-five (25) pounds or less of smokeless powder or five (5) pounds or less of black powder for use in small arms, but a permit shall not be required for retail stocks of small arms ammunition for small bore rifles or shotguns customarily used in wild game hunting, or for target practice or skeet shooting. The city fire marshal shall have the power to limit the quantities of other explosives for which a permit is requested, but shall not grant permits for liquid nitroglycerin, dynamite with over 60% of liquid explosive

ingredient, unstable types of dynamite, nitrocellulose, fulminate of mercury, explosive compositions that ignite spontaneously or markedly decompose to become more hazardous when subjected to 48 consecutive hours at a temperature of 167 degrees F.

2. **FLAMMABLE AND COMBUSTIBLE LIQUIDS.** The regulations for the storage and handling of flammable and combustible liquids as set forth in IAC 661, Chapter 51 are adopted by reference and shall be enforced by the city fire marshal. No flammable or combustible liquid shall be dispensed from underground tanks in residential areas except in public garages or motor fuel (service) stations which exist as legally nonconforming uses under the zoning chapter.
 3. **LIQUEFIED PETROLEUM GASES.** The regulations for the storage and handling of liquefied petroleum gases as set forth in IAC 661, Chapter 51 are adopted by reference and shall be enforced by the city fire marshal, and no installation exceeding 900 pound capacity shall be made without a city permit, conditioned on compliance with said state rules, issued by the city fire marshal.
- 1.22 **PENALTIES.** Any person who violates any of the provisions of this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions in the same manner as provided for in the chapter on nuisances.
- 1.23 **INTERFERENCE WITH FIRE FIGHTING.** It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his duty at, or going to, or returning from a fire, or while attending to his duties as a member of the fire department.
- 1.24 **DAMAGING FIRE DEPARTMENT PROPERTY.** It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.
- 1.25 **FALSE ALARMS.** No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.
- 1.26 **DRIVING OVER FIRE HOSE.** It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any fire department official.

- 1.27 ASSISTING FIREMEN. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the Chief of the fire department or the officer acting in his place.
- 1.28 PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person having charge of any of the fire apparatus belonging to the city to allow or permit the same to be used for private benefit.

CHAPTER 2: FIRE LIMITS

ARTICLE 3 - FIRE LIMITS ESTABLISHED

2.01 FIRE LIMITS ESTABLISHED. The fire limits (Fire Zone No. 1) are established to include the following property:

The limits of the Fire District in the City of Orange City are established as the corporate limits of the City of Orange City as established from time to time by City ordinance.

CHAPTER 3: CONDITIONS REGULATED

ARTICLE 3 - INFLAMMABLES

- 3.01 PERMIT REQUIRED. It shall be unlawful to install, operate, maintain, or use any magazine or tank for the storing or keeping of inflammable oils, including gasoline, having a capacity of more than twenty-five (25) gallons, commonly called a filling station or a curb pump, or any bulk or storage magazine or tank, having a capacity of one thousand (1,000) gallons or more, without first obtaining a permit from the Council.
- 3.02 APPLICATION. Any person, firm, or corporation, desiring a permit for the construction, installation, operation, or maintenance of any magazine or tank for the storing, keeping, or disposing of inflammable oils, including gasoline, shall make application for a permit to the Council, and shall file with such application a plat, drawn to scale, showing the size and location of the magazines or tanks installed or to be installed, and all other buildings or structures erected or to be erected thereon, and the location of and present use of all buildings within two hundred (200) feet.
- 3.03 CONSENT REQUIRED. No such permit shall be granted by the Council, where the premises to be occupied lies within a residence district where at least seventy-five percent (75%) of all lots or parcels of ground, within two hundred (200) feet of any part of the premises to be occupied, is used or occupied for residence purposes, unless such application is accompanied by the consent, in writing, of all owners of real estate, any part of which is used as a place for the storage or keeping of inflammable oils, including gasoline, shall not be required.
- 3.04 PERMITS PROHIBITED. No permit shall be granted by the Council for the construction, operation, and maintenance of magazines or tanks for the storing or keeping of inflammable oils, including gasoline, upon any premises, any part of which is within four hundred (400) feet of any school grounds, church, hospital, public auditorium, or other public institution.
- 3.05 COUNCIL TO ACT. The Council shall investigate all applicants for permits and, at its discretion, may grant or refuse a permit for any particular location.
- 3.06 PERMIT ISSUED. Upon the granting of a permit for any location by the Council, the Mayor shall issue the permit.
- 3.07 DRIVEWAYS. The owner or proprietor of each magazine or tank for the storing or keeping of inflammable oils, including gasoline, commonly called a filling station, shall be entitled to construct and maintain on any street or streets, for each place so constructed or maintained as one operating unit, a driveway or driveways thereto not exceeding thirty (30) feet in width, or to use not exceeding thirty (30) feet of curb line.

- 3.08 MAGAZINES NOW ESTABLISHED. This ordinance, with the exception of securing a permit from the Council, shall apply to all magazines and tanks now installed, maintained, operated, and used, and the owner or proprietor shall comply with the provisions of this ordinance within thirty (30) days from and after the date of publication of this ordinance.
- 3.09 OFFENSE. It shall be unlawful to draw or handle inflammable oils, including gasoline, in the presence of any open flame, fire, lamp, candle, lighted cigar, pipe, or cigarette, or within ten (10) feet of any engine, machine, or other apparatus from which fire or sparks are emitted.
- 3.10 OFFENSE. It shall be unlawful to fill any magazine or tank with inflammable oil from a tank or container on any motor vehicle while the engine is running.
- 3.11 OFFENSE. It shall be unlawful to fill the tank on any motor vehicle with inflammable oil from any pump or filling standard while the engine of the motor vehicle is running.
- 3.12 OFFENSE. It shall be unlawful to operate any motor vehicle in any pit, vault, or other place where inflammable oils are stored or kept or where explosive fumes from inflammable oils will collect.
- 3.13 OFFENSE. It shall be unlawful to collect any waste materials, saturated with grease, oil or inflammable fluids in any place not exposed to the open air or in any place where explosive fumes will collect.
- 3.14 INSPECTION. All filling stations and bulk storage stations, where magazines or tanks for the storage or keeping of inflammable oils, including gasoline, are installed, maintained, and used, shall be inspected by the Chief of the Fire Department and by the Marshall at least every three (3) months, or oftener as required by the Council or the Mayor. Such inspections shall be made to see if any conditions exist that are dangerous to persons or property and to see that all precautions and protections against fire, as required by Ordinance, and the laws of the state, or the regulations of the State Fire Marshall are being observed, and the inspector shall report to the Council or Mayor, in writing, the results of such inspection and make recommendations for the removal of any dangerous conditions or fire hazards found to exist.

CHAPTER 3: CONDITIONS REGULATED

ARTICLE 4 - FIREWORKS

4.01 FIREWORKS. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks without a permit from the city.

4.02 DEFINITION. The term "fireworks" shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term "*fireworks*" does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols

(Code of Iowa, Sec. 727.2)

4.03 REGULATIONS. The city may, upon application in writing, grant a permit for the display of fireworks by a city agency, fair associations, amusement parks and other organizations or groups of individuals approved by the council when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the city evidence of insurance in the following amounts:

(Code of Iowa Sec. 727.2)

- | | |
|---------------------|----------------------|
| a. Personal injury: | \$250,000 per person |
| b. Property damage: | \$50,000 |
| c. Total exposure: | \$5,000,000 |

The City of Orange City shall be listed as an additional insured on the operator or sponsoring organization evidence of insurance.

(Editor's Note: Section 4.03 was amended at time of 2008 Codification.)

4.04 OTHER PURPOSES EXEMPT. Nothing in section 4.04 shall be construed to prohibit any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped out of state; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports or by railroads, 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 sold for medicinal or fumigation purposes.

(Code of Iowa, Sec. 727.2)

TITLE 6 - HEALTH AND SANITATION

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

1.01 PURPOSE. The purpose of this chapter is to provide a solid waste collection system for the final disposition or recycling of solid waste, garbage, and refuse; and thereby to protect the citizens of this City and the environment from hazards to their health, safety and welfare that result from the uncontrolled collection and disposal of or failure to recycle solid wastes, garbage and refuse.

1.02 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural and domestic activities, excluding yard wastes.
(Code of Iowa, 455B.301(20))
 - a. Garbage means all solid and semisolid, 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 byproducts, and shall include all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
 - b. Refuse means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.
(IAC, 567-100.2)
 - c. Rubbish means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery, or litter of any kind.
(IAC, 567-100.2)
2. "Residential Waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.
(IAC, 567-20.2)
3. "Landscape Waste" means any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2)
4. "Toxic and Hazardous Wastes" means waste materials including, but not limited to paint, poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes, which require

special handling and careful disposal to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

5. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361(1))
6. "Rubble" means stone, brick, or similar inorganic material.
(IAC, 567-100.2)
7. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.
(IAC, 567-20.2)
8. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
(IAC, 567-20.2)
9. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
(IAC, 567-100.2)
10. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361(2))
11. "Recyclable Materials" means solid waste determined from time to time by the City to be recyclable, including, but not limited to, plastics, newsprint, corrugated cardboard, tin cans, or glass.
12. "Sanitary Disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance including the recycling of solid waste to regain material for human use.
(IAC, 567-100.2)
13. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Executive Director.
(Code of Iowa, Sec. 455B.301(18))
14. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.
(IAC, 567-100.2)

15. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.
(IAC, 567-20.2)
 16. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).
 17. "Owner" means 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 hereinafter imposed shall be joint and several.
 18. "Yard Wastes" means all debris such as grass, grass clippings, weeds, leaves, seed, seed pods, garden waste, brush and trees or brush or tree trimmings, branches, shrubbery or other yard trimmings not including tree stumps.
- 1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.
 - 1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
 - 1.05 OPEN BURNING. No person shall allow, cause or permit open burning of combustible materials. The following shall be permitted exceptions:
(IAC, 567-23.2)
 1. FLARE STACKS. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the EPC of the IDNR.
(IAC, 567-23.2(3c))
 2. RECREATIONAL FIRES. Open fires for cooking in a confined container, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the EPC of the IDNR.
(IAC, 567-23.2(3e))
 3. TRAINING FIRES. Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the Executive Director of the EPC of the IDNR receives notice in writing at least one (1) week before such action commences.
(IAC, 567-23.2(3g))

4. VARIANCE. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the Executive Director of the EPC of the IDNR.
(IAC, 567-23.2(2))
- 1.06 LITTERING PROHIBITED. No person shall discard any litter on or in any water or land, except when and where authorized. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.
(Iowa Code Sec. 455B.363)
- 1.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of IDNR, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director or a designee of the Iowa Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.
(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)
- 1.08 TOXIC AND HAZARDOUS WASTES. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.
(IAC, 567-100.2) (IAC, 567-102.14(2) and 400-27.14(2))
- 1.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit, or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:
1. CONTAINER SPECIFICATION.
- a. Residential customers shall be provided with a toter or toters from the City's contracted garbage hauler and use of these toters is mandatory.
- If a residential customer desires to set additional container(s) for pickup, the container(s) shall be made of galvanized metal, rubber, fiberglass, or of plastic which does not become brittle in cold weather. They shall have a minimum capacity of not less than ten (10) gallons and not more than thirty-five (35) gallons. They shall be of lightweight and sturdy construction, with the total weight of any individual container, fully loaded, not to exceed sixty-five (65) pounds. They shall be of the type manufactured for storage of

residential wastes with tapered sides for easy emptying and suitable lifting devices such as handles or bails. They shall be waterproof and leak-proof. They shall be fitted with a fly tight lid, which shall remain in place except for the deposit or removal of wastes.

These additional container(s) placed for collection must be marked with identifying tags for single use with the rates set for single use collection tags and other solid waste disposal services annually or at such other times as deemed reasonable by the City Council.

- b. Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
- c. No more than two (2) containers, as described in subparagraph (a) above, per residential unit, shall be collected as the normal rate of charge for collection. All additional containers placed for collection must be marked with identifying tags for single or annual use with the rates set for single use collection tags or annual use collection tags and other solid waste disposal services annually or at such other times as deemed reasonable by the City Council.

Editor's Notes: Ordinance 724 approved by City Council on December 1, 2004, amended Section 1.09(1)(c). Ordinance 780 amends Section 1.09(1)(a).

- 2. **LOCATION OF CONTAINERS.** Residential solid-waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the city to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public-health personnel, and fire-inspection personnel. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb or alley line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line or alley line following collection.

(Editor's Note: Section 1.09(2) was amended at time of 2008 Codification.)

- 3. **NONCONFORMING CONTAINERS.** Solid waste containers, which are not approved, will be collected together with their contents and disposed of after due notice to the owner.
- 4. **TIME LIMIT.** Containers, bags, packages, or other solid wastes placed at the curb line shall not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be removed within twenty-four (24) hours from the curb line following collection.

- 1.10 STORAGE OF YARD WASTES. All such yard wastes shall be timely removed to the provided disposal site by the City. Nothing herein shall be construed to prohibit the disposal or composting solely of yard waste on the same premises where it originated.

(Editor's Note: Section 1.10 was amended at time of 2008 Codification.)

- 1.11 SANITARY DISPOSAL REQUIRED OF OWNER. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. If such accumulation becomes a nuisance, the city may proceed to abate the nuisance. Any such accumulation remaining on any premises for a period of more than twenty one (21) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Title VI, Chapter 2, Article Nuisance Abatement Procedures or by initiating proper action in district court.
(Code of Iowa, Sec. 657.2)

- 1.12 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. UNLAWFUL USE OF CONTAINERS. Deposit refuse in any solid-waste containers other than his or her own without the written consent of the owner of such containers.
2. INTERFERE WITH COLLECTORS. Interfere in any manner with solid waste collection equipment or with solid-waste collectors in the lawful performance of their duties, whether such equipment or collectors be those of the city or those of any other authorized waste-collection service.
3. UNLAWFUL DISPOSAL. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. UNLAWFUL COLLECTION. Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract with the city, or possessing a city solid waste hauler permit.
5. INCINERATORS. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.
6. SEPARATE WASTES. Fail to separate yard wastes from solid wastes or recyclable materials for collection.
7. SCAVENGING. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

- 1.13 WIND-BLOWN REFUSE. It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause

clouds of dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.

- 1.14 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES. It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the city without the consent of the owner or tenant in possession thereof. For the purpose of this section vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.
- 1.15 DEBRIS ON STREETS. It shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley or sidewalk or other public place in the city.
- 1.16 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS. It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the city.
- 1.17 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 2 - COLLECTION AND TRANSPORTATION OF SOLID WASTE

2.01 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Solid Waste Collection." shall mean the gathering of solid wastes from public and private places.
(IAC, 567-100.2)
2. "Solid Waste Transportation." shall mean the conveying of solid waste from one place to another by means of vehicle, rail, car, water vessel, conveyor, or other means.
(IAC, 567-100.2)
3. "Residential Premises." A single family dwelling and any multiple family dwelling up to and including two (2) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of each such apartments or units which may be included in a given housing development.

(Editor's Note: Section 2.01(3) was amended to include two (2) separate quarters at time of 2008 Codification.)
4. "Dwelling Unit." Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. "Property Served." Any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided by this chapter.
6. "Collectors." Any person, firm, or corporation engaged in the business of gathering, transporting, and disposing of residential waste for hire under contract with the City of Orange City or gathering, transporting, and disposing of commercial and industrial solid waste for hire by private agreement as provided for by this Ordinance.
7. "Owner-Collector." Any person, firm or corporation which gathers, transports, and disposes of its own solid waste created by its own use of private, commercial, or industrial property.
8. "Independent Contractors." Any person, firm, or corporation with whom the City of Orange City has executed a contract for services.
9. "Person." An individual, firm, partnership, domestic, or foreign corporation, company, association, trust, or other legal entity, and including a trustee, receiver, assignee, or similar representative thereof, but not including a governmental body.

- 2.02 COLLECTION SERVICE. The City shall provide for the collection of refuse from residential, commercial, industrial or institutional premises within their jurisdiction which are not exempted by law.
(Code of Iowa, Sec. 455.302)
- 2.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.
- 2.04 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.
- 2.05 FREQUENCY OF COLLECTION. All refuse shall be collected from residential premises at least once a week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.
- 2.06 BULKY SOLID WASTE. Bulky solid waste which is too large or heavy to be collected in the normal manner of other refuse may be collected at the discretion of the collector upon request.
- 2.07 RIGHT OF ENTRY. Solid waste collectors are authorized to enter upon private property for the purpose of collecting refuse as required by this chapter. However, solid waste collectors shall not enter dwelling units or other residential buildings.
- 2.08 RESIDENTIAL COLLECTION - NON-RECYCLABLE WASTE. By virtue of any agreement entered into between the City and Independent Contractors, such Independent Contractor may provide solid waste collection service for and on behalf of the City, to remove solid wastes from residential premises as defined in this Chapter, subject to the following conditions:
1. Such collection shall be made not less than once a week, at such times and in such areas of the City as shall be set out in schedules agreed upon by the City and its Independent Contractors.
 2. The City and its Independent Contractors are authorized and empowered, jointly to change or amend such schedules from time to time as they, in their discretion, shall deem necessary.
 3. Collection may be made either from streets or alleys, where existing, at the discretion and direction of the City of Orange City, with all containers to be placed within five (5) feet of the residential premises to be served.

4. It shall be the responsibility of the owners of the residential property being served to provide such containers and prepare said containers for collection.

2.09 MANDATORY RESIDENTIAL COLLECTION - RECYCLABLE WASTE. By virtue of any agreement entered into between the City and an Independent Contractor(s), such Independent Contractor(s) may provide solid waste collection service for and on behalf of the City, to remove recyclable materials from residential premises as defined in this Ordinance for sanitary disposal by recycling, subject to the following conditions:

1. Collection for recycling shall be weekly.
2. Solid waste collection for residential premises for non-recyclable and recyclable waste shall not be on the same day.
3. Solid waste collection for recycling may begin on or after August 1, 1989, as agreed upon by the City and its Independent Contractor(s).
4. Collection may be made either from streets or alleys, where existing, at the discretion and direction of the City, with all containers to be placed within five (5) feet of the residential premises to be served.
5. The City shall provide or shall oversee the distribution containers to owners of residential premises to be used for collection of recyclable solid waste by the owner.
6. Owners of residential premises shall cooperate in the recycling of solid waste by performing the following, which are regarded as mandatory:
 - A. All recyclable material shall be separated from other solid waste in provided containers unless otherwise exempted from the use of such containers for collection at times and from locations governed by this Article or by agreement between the City and its Independent Contractor.
 - B. Classes of recyclable material shall keep in compliance with specifications adopted by Northwest Iowa Landfill.

Editor's Note Ordinance 724 approved by City Council on December 1, 2003, amended Subsections 2.09(1) & (5). Section 2.09(6) was amended at time of Codification in 2007)

2.10 COMMERCIAL AND INDUSTRIAL COLLECTION. Commercial enterprises and industrial or business establishments shall make disposition of rubbish and solid waste accumulated outside of the building occupied by such concern not less than three (3) times each week and any such establishment producing garbage shall dispose of the same without accumulation outside of the building occupied by said business establishment. The entrepreneurs of such establishment shall be at liberty to negotiate with private licensed collectors or to dispose of their own wastes in keeping with the provisions of this Code and State laws and regulations.

2.11 YARD WASTE COLLECTION AND DISPOSAL. See Section 1.10 of Title 6.

(Editor's Note: Section 2.11 was amended at time of 2008 Codification)

2.12 COLLECTION FEES. The collection and disposal of refuse as provided by this chapter is declared to be a benefit to the property served and therefore, a mandatory fee shall be levied and collected in accordance to the following:

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

1. SCHEDULE OF FEES. The fee for refuse collection and disposal services used or available shall be:

a. Said charge per occupied residential premises per month beginning September 1, 2013 shall be:

1 – 60 gallon toter \$14.45
2 – 60 gallon toters \$23.75
1 – 95 gallon toter \$18.45
2 – 95 gallon toters \$31.75

(Editor's Note: Ordinance 780 was approved by City Council on July 14, 2014 2.12(1)(a))

b. Adjustments will be made to the charges in a. above at the following rate: a \$.10 increase will occur if the average diesel fuel pump price in Orange City goes above \$3.50 per gallon for every increment of \$.25 per gallon. A \$.10 decrease will occur if the above fuel prices goes below \$2.50 per gallon for every increment of \$.25 per gallon. All of the above adjustments will reverse if diesel fuel prices do the same.

c. Adjustments will be made to the changes is a. above at the following rate: a \$.10 increase for every \$1.00 increase in the tonnage fee at the NW Iowa Landfill Agency, above the current \$30.50/ton fee.

(Editor's Note: Ordinance 780, approved by City Council on July 14, 2014 amended Section 2.12(1), Schedule of Fees)

2. PAYMENT OF FEES. Fees shall be payable to the office of the City Clerk.

3. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent and a late penalty of 5% the amount due may be added.

4. PAYMENT TO COLLECTOR. The City shall pay the collector by the month the amount due for the past month.

5. INTEGRATED DELIVERY OF CITY SERVICES. The system of services established by the provisions of this chapter is designed as an integral part of the City's program of health and sanitation, to be operated as an adjunct to the City's system for providing sewage facilities. The services provided for in this chapter shall be deemed to be furnished to both the occupant and the owner of the premises receiving such service, and the City may enforce collection of such charges by bringing proper legal action against the occupant, the owner, or other, of any

premises which has received such services, to recover any sums due for such services plus a reasonable attorney's fee to be fixed by the court.

6. OWNER AND OCCUPANT RESPONSIBLE. The residential charge provided above is imposed jointly and severally, upon the owner and upon the occupant of each dwelling unit receiving such service under the provisions of this chapter and billing therefore shall be made to the person contracting for city water and/or sewage services.

2.13 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his or her own within the City without first obtaining from the City an annual contract in accordance to the following:
(Code of Iowa, Sec. 455B.302)

1. REQUIRED INFORMATION. The following information shall be required on the contract with the city:
 - a. Name and address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers.
 - b. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - c. Collection program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - d. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. INSURANCE. No collector's contract shall be entered into unless the applicant shall file and maintain with the city, in addition to all other requirements, evidence of satisfactory public liability insurance. This insurance must cover all pertinent operations of the applicant related to the business, equipment and vehicles to be operated in amounts determined by the city council;

Each insurance policy required shall include provisions requiring the insurance agent to notify the city of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.
3. PERMIT FEE. A twenty-five dollar (\$25) fee shall be required of every solid waste hauler, whether or not covered by a city solid waste contract.
4. CONTRACT NEGOTIATED. If the council upon investigation finds the collector to be in order and determines that the collector will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the contract shall be negotiated to be effective for a period of at least two (2) years from the date approved.

5. ANNUAL RENEWAL. The contract may be renewed upon council review of the contractor's compliance with its terms.
6. CONTRACT NOT TRANSFERABLE. No contract authorized by this chapter may be transferred to another person without council approval.
7. OWNER MAY TRANSPORT. Nothing within this chapter is to be construed as to prevent an owner from transporting solid waste accumulating upon premises owned, occupied or used by the owner, provided such refuse is disposed of properly in an approved sanitary disposal project.
8. GRADING OR EXCAVATION EXCEPTED. No contract or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.
9. REVOCATION. The Council may revoke any license to any collector after notice of hearing to the persons affected upon any violation of this Chapter or issuance of license.

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 3 - SOLID WASTE DISPOSAL

3.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "Processing facility" shall mean any incinerator, baler, shredder or similar facility or process employed to reduce the volume or change the characteristics of, solid waste prior to final disposal.
2. "Site" shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.
(IAC, 567-100.2)
3. "Scavenging" shall mean the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.
(IAC, 567-100.2)
4. "Operator" shall mean the person or agency authorized to conduct disposal operations at a public sanitary landfill or licensed private landfill.
5. "Resident" shall mean in addition to any person residing in the city, any person occupying or using any commercial, industrial or institutional premises within the city.
6. "Radioactive material" shall mean any solid, liquid, or gaseous material which emits radiation spontaneously.
(Code of Iowa, Sec. 455B.331(2))

3.02 SANITARY DISPOSAL REQUIRED. Solid wastes generated or produced within the city shall be disposed of at a sanitary disposal or processing facility approved by the city and by the Executive Director of the EPC of the Iowa DNR. (Code of Iowa, Sec. 455B.307(1))

3.03 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

3.04 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only in accordance with explicit instructions first obtained from the Executive Director of the EPC of the Iowa DNR. (IAC, 567-102.14(2))

- 3.05 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.
(IAC, 567-102.14(1))
- 3.06 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the approved operator are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.
- 3.07 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.

CHAPTER 2: NUISANCES

ARTICLE 4 - GENERAL PROVISIONS

4.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "NUISANCE" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
 - (Code of Iowa, Sec. 657.1)
 - a. Offensive smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, 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. Filth or noisome substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
(Code of Iowa, Sec. 657.2(2))
 - c. Water pollution. The corrupting 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))
 - d. Blocking public and private ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landings, places or burying grounds.
(Code of Iowa, Sec. 657.2(5))
 - e. Billboards. 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.
(Code of Iowa, Sec. 657.2(7))
 - f. Storing of inflammable junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper by dealers in such articles within the fire limits of the city, unless it be in a building of fireproof construction.
(Code of Iowa, Sec. 657.2(9))

- g. Air pollution. The emission of dense smoke, noxious fumes or fly ash.
(Code of Iowa, Sec. 657.2(10))
- h. Obstruction of drainage. Any article or substance placed upon any street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the same.
- i. Dutch elm disease. Trees infected with Dutch elm disease.
(Code of Iowa, Sec. 657.2(12))
(See Title 7, Chapter 3, Article 12 Diseased & Dead Tree Control of this Code)
- j. Airport air space. Any object or structure hereafter erected within one thousand (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, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
(Code of Iowa, Sec. 657.2(8))
- k. House of ill fame. Houses of ill fame, kept for the purpose 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))
- l. Obstruction of view. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- m. Trash piles. Accumulation of rubbish or trash tending to harbor vermin or rodents and creating the hazard of fire.
- n. Septic effluent. Effluent from a septic tank or drainage field running or ponding on the ground in the open, including in ditches.
- o. Ponding water. An accumulation of water until it becomes stagnant.
- p. Weeds. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.
(Code of Iowa, Sec. 657.2(11))
- q. Farm Animals & fowl. Except in areas zoned Agricultural and if the City's zoning ordinance allows for farm animals and fowl in areas zoned agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses or ponies.

- r. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
- s. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans, or containers.
- t. A house, other building or land visible from any public place or private premises remaining in an unclean or disorderly condition and to a standard not conforming with other orderly premises in the vicinity.
- u. Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.
- v. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals or insects.
- w. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free standing material makes with the horizontal plane without slipping, sliding or collapse of the material.

This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.

- 2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.
(Code of Iowa, Sec. 364.12(1))

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

4.03 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this chapter:

- 1. **REMOVAL OF DISEASED TREES.** 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(3b))
- 2. **REMOVAL OF STRUCTURES.** The removal, repair or dismantling of a dangerous building or structure.
(Code of Iowa, Sec. 364.12(3c))
- 3. **NUMBERING OF BUILDINGS.** The numbering of buildings.
(Code of Iowa, Sec. 364.12(3d))

4. DRAINAGE CONNECTIONS. The connection to public drainage systems from abutting property when necessary for public health or safety and protection of property.
(Code of Iowa, Sec. 364.12(3e))
 5. SANITARY FACILITIES. 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(3f))
 6. DESTRUCTION OF WEEDS. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
(Code of Iowa, Sec. 364.12(3g))
 - A. All weeds or other growth must be destroyed on or before the 1st day and 15th day of the following months: May, June, July, August, September, and October. In the event of failure to comply, the City or its designated representative shall enter the property and destroy said weeds or other growth at the property owner's expense. The City will assess the actual cost of labor and material expended plus 10% of this amount for administrative costs against the property cleared of weeds or other hazardous growth which constitutes a health, safety, or fire hazard. (*See Article 5.07*)
- 4.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter.
(Code of Iowa, Sec. 657.3)

CHAPTER 2: NUISANCES

ARTICLE 5 - ABATEMENT PROCEDURE

- 5.01 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists or a condition needs to be corrected, he/she shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.
(Code of Iowa, Sec. 364.12(3h))
- 5.02 NOTICE TO ABATE. The notice to abate shall contain:
(Code of Iowa, Sec. 364.12(3h))
1. DESCRIPTION OF NUISANCE. A description of what constitutes the nuisance or other condition.
 2. LOCATION. The location of the nuisance or condition.
 3. ACTS NECESSARY TO ABATE. A statement of act or acts necessary to abate the nuisance or condition.
 4. REASONABLE TIME. A reasonable time within which to complete the abatement.
 5. ASSESSMENT AT CITY COSTS. 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 plus ten percent (10%) of this amount for administrative costs against such person or property. (See Article 5.07)
- 5.03 METHOD OF SERVICE. The notice may be in the form of an ordinance, or a notice sent by certified mail or personal service by a law enforcement officer to the property owner.
(Code of Iowa, Sec. 364.12(3h))
- 5.04 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the council at a time and place fixed by the council. The findings of the council shall be conclusive, and if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
- 5.05 ABATEMENT IN EMERGENCY. If it is determined that an emergency or danger exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which may be required under this chapter without prior notice. The council shall assess the costs after notice to the property owner and hearing on the costs incurred by the city to abate the nuisance or condition.
(Code of Iowa, Sec. 364.12(3h))

5.06 ABATEMENT BY CITY. 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 Clerk who shall pay such expenses on behalf of the city.

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

5.07 COSTS OF ABATEMENT. The following shall apply to abatement procedure:

1. **COLLECTION.** The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the county auditor and it shall then be collected with and in the same manner as general property taxes.

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

2. **INSTALLMENT PAYMENT.** If the amount expended to abate the nuisance or condition exceeds \$500, the city shall permit the assessment to be paid in up to fifteen (15) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.

(Code of Iowa, Sec. 364.13)

3. The City may collect all associated abatement expenses in a Court of Small Claims.

4. The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.

5. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

(Editor's Note: Sections 5.07(3-5) was added at time of 2008 Codification).

CHAPTER 2: NUISANCES

ARTICLE 6- MUNICIPAL INFRACTIONS:

6.01 DEFINITIONS.

1. **Municipal Infraction:** A civil offense punishable by a civil penalty of not more than \$750.00 for each violation or, if the infraction is a repeat offense, a civil penalty not to exceed \$1,000.00 for each repeat offense. However, no felony, aggravated misdemeanor, or serious misdemeanor under Iowa Code Chapters 687 through 747 shall be classified as a municipal infraction. The provision is a codification of ordinance no. 681 adopted June 2, 1997 based upon Iowa Code Section 364.22 as amended.
2. **Officer:** Any employee or person authorized to enforce the ordinances and the City Code of the City of Orange City, Iowa.
3. **Repeat Offense:** Any recurring violation of the same section of the ordinances or the City Code of Orange City, Iowa.
(Code of Iowa Sec. 364.22)

6.02 PENALTIES.

1. A municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:

Schedule of Civil Penalties

First Offense	\$750.00
Each Repeat Offense	\$1,000.00

However, a municipal infraction arising from noncompliance with a pretreatment standard or requirement by an industrial user may be punishable by a civil penalty of not more than \$1,000.00 for each day a violation exists or continues.

2. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
3. Seeking a civil penalty as authorized in the above provisions does not preclude the city from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

6.03 CIVIL CITATIONS.

1. Any officer authorized by the City to enforce the City Code or ordinances may issue a civil citation to a person who commits a municipal infraction.
2. The citation may be served by personal service as provided in Iowa Rule of Civil Procedure 1.305, or by certified mail to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner provided in Iowa Rule of Civil Procedure 1.310 and subject to the conditions of Iowa Rule of Civil Procedure 1.311.
3. A copy of the citation shall be retained by the issuing officer, and one copy shall be provided to the Clerk of the district court.
4. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.
 - h. The legal description of the affected property, if applicable.

6.04 ALTERNATIVE REMEDIES AVAILABLE. The city and its officers and employees shall have the option to select appropriate remedies in any circumstance as deemed best, such as standard penalty under Title 1 Chapter 1 Section 1.06, abatement, municipal infraction or any other remedy provided by this Code not consistent with State law as amended from time to time.

6.05 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if the 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.

(Code of Iowa, Sec. 364.22)

6.06 PROHIBITION AGAINST FURTHER VIOLATIONS. A person who commits an infraction of a City ordinance subject to the provisions of this chapter may be ordered by the Court to cease further violations of the same provisions of the ordinance. Failure of the person to adhere to this order will result in contempt proceedings being initiated by the City.

CHAPTER 2: NUISANCES

ARTICLE 7- SPECIFIC EVENT

- 7.01 APPLICABILITY. The provisions of this ordinance shall apply to the Annual Orange City Tulip Festival and any future events or other major gatherings of visitors and/or citizens in Orange City for similar events (“special event”) posing similar concerns regarding the health, safety, and welfare of the community and its visitors.
- 7.02 FOOD VENDOR. No person, organization or entity shall provide or sell food or beverages to the public in Orange City, without first obtaining a Vendor’s Permit from the Tulip Festival Steering Committee or the committee, entity or organization in charge of the event.
- 7.03 FOOD VENDOR REQUIREMENTS. The Food Vendor permit may be granted on condition that the Food Vendor locate the stand as determined by the Food Vendor Committee. All food vendors must show proof of liability insurance with a minimum amount of \$1,000,000, comply with the Iowa Department of Health rules and regulations and the Iowa Department of Revenue rules governing the sale of food for consumption in the City of Orange City. Applications shall be submitted to the Tulip Festival Steering Committee or the committee, entity or organization in charge of the special event.
- 7.04 STREET VENDOR. No person, organization or entity shall sell merchandise or entertainment to the public in Orange City, Iowa without first obtaining a Vendor’s Permit from the Tulip Festival Steering Committee, or the committee, entity or organization in charge of the special event.
- 7.05 STREET VENDOR REQUIREMENTS. The Street Vendor Permit may be granted on the condition that the Street Vendor locate the stand as determined by the Street Vendor Committee; and all vendors must show proof of liability insurance in an amount not less than \$1,000,000 and shall comply with the Iowa Department of Health rules and regulations and the Iowa Department of Revenue rules governing the sale of merchandise. Applications shall be submitted to the Tulip Festival Steering Committee or the committee, entity or organization in charge of the special event.
- 7.06 EXISTING BUSINESSES. Existing retail businesses and/or food establishments which are open and operate throughout the year are specifically excluded from the requirement of obtaining a food and/or street vendor permit to sell food and/or merchandise during the Tulip Festival or other special event.
- 7.07 NUISANCE. The sale of food or beverages or locating of a temporary business for the sale of food, beverages, merchandise or entertainment outdoors without a permit or in violation of any of the provisions of this Ordinance is hereby declared to be a nuisance. Law enforcement personnel are hereby empowered to cause any offending stand or temporary stand (business) or outdoor entertainment to be dismantled, removed and terminated without notice.

7.08 MISDEMEANOR. It shall be a misdemeanor for any person to supply to sell food, beverages, merchandise or entertainment within the City of Orange City without first having obtained a Vendor's Permit as required herein. This special events ordinance shall apply on subsequent dates as specific events are scheduled or occur, with the timelines adjusted accordingly in keeping with the pattern hereby established.

(Editor's Note: Ordinance 764 was approved by City Council April 2, 2012 and replaced Article 7 – Specific Events in its entirety.)

CHAPTER 3: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 7 - JUNKED VEHICLES AND MACHINERY

7.01 DEFINITIONS.

1. VEHICLE means every device in, upon, or 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 includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.
2. "Junk" means all old or scrap copper, brass, lead or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliance; iron, steel or other old or scrap ferrous materials; old or discarded glass, tin ware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.
3. For use in this article, the term "Junk Motor Vehicle" or "Junk Machinery" shall mean any motor vehicle or piece of machinery stored within the corporate limits of the city, not licensed for the current year as required by any law, or which because of any one of the following characteristics, constitutes a threat to the public health and safety:
 - a. UNLICENSED. Any vehicle not licensed for the current year as required by any law.
 - b. OPERABLE ("ROAD-READY"). Any vehicle not in safe condition or road ready for use on any roadways. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - c. UNINSURED. Any vehicle not insured and having proof of financial liability coverage.
 - d. BROKEN GLASS. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - e. BROKEN OR LOOSE PART. Any vehicle with a broken or loose fender, door, bumper, hood, door handle, window handle, steering wheel, trunk lid, trunk handle, or tail pipe.

- f. **HABITAT FOR NUISANCE ANIMALS OR INSECTS.** Any vehicle or piece of machinery which has become the habitat for rats, mice, or any other vermin or insects.
- g. **FLAMMABLE FUEL.** Any vehicle or machinery which contains gasoline or any other flammable fuel.
- h. **DEFECTIVE OR OBSOLETE CONDITION.** Any other vehicle or piece of machinery which, because of its defective or obsolete condition in any other way, constitutes a threat to the public health and safety.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

- 7.02 **JUNK AND JUNK VEHICLES PROHIBITED.** It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.
- 7.03 **JUNKED VEHICLES AND MACHINERY A NUISANCE** It is hereby declared that any junk or junk vehicle or junk machinery located upon private property, unless excepted by section 7.04 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 or a junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation. (Code of Iowa, Sec. 364.12(3a))
- 7.03 **EXCEPTIONS.** The provisions of this chapter shall not apply to a junk motor vehicle or junk machinery stored within:
- 1. A garage or other enclosed structure; or
 - 2. An auto salvage yard or junk yard lawfully operated within the city.
- 7.04 **NOTICE TO ABATE.** Upon discovery of any junk motor vehicle or junk machinery stored upon private property in violation of Article 7.02, the Police Chief shall within five (5) days initiate abatement procedures.
(Code of Iowa, Sec. 364.12(3a))
- 7.05 **ABATEMENT BY IMPOUNDING.** If the owner of a junked motor vehicle, or, in the absence of any known or ascertainable owner, the owner of the property upon which it is stored, shall fail to remove or repair the motor vehicle in accordance with this chapter, the Chief of Police or any other delegated police officer shall abate such nuisance by causing the motor vehicle to be towed to the municipal impounding lot or to any other place of safe keeping, and the cost of the towing and storage shall be charged to the owner of the motor vehicle, in the absence of any known or ascertainable owner, to the owner of the property upon which it is stored.

- 7.06 DISPOSAL. All junked motor vehicles impounded by the police shall be sold to the highest bidder at a public auction, or shall be disposed of in a commercially reasonable manner, and in the event that public auction is used, the time and place shall be duly noted in a newspaper of general circulation within the City of Orange City, not less than seven (7) days before the auction. All revenue derived from the sale or other disposal of junked or obsolete motor vehicles shall accrue to the City of Orange City.

TITLE 7 - PUBLIC ORDER

CHAPTER 1: ANIMAL CONTROL AND PROTECTION

ARTICLE 1 - REGULATION OF DOGS AND CATS

1.01 DEFINITIONS. For use in this article the following terms are defined:

1. "DOG, CATS" shall mean both male and female animals of the canine or feline species whether altered or not.
2. "OWNER" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog or cat.
3. "AT LARGE" shall mean off the premises of the owner and not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint.
4. "KENNEL CATS OR DOGS" shall mean those cats or dogs kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.

1.02 LICENSE. Reserved for Future Use.

1.03 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. It shall be a violation of this ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined. (Code of Iowa, Sec. 351.33)

1.04 KENNEL DOGS AND CATS. Kennel dogs and cats which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this article if the kennel is licensed under Chapter 162, Code of Iowa.

1.05 AT LARGE PROHIBITED. No owner of any dog or cat shall permit such dog or cat to run at large.

1.06 ACTIONS OF DOGS OR CATS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog or cat to allow or permit such dog or cat to perform the following:

1. OTHER PREMISES. To pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. CAUSE ANNOYANCE. To cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking or otherwise; or by running after or chasing persons, bicycles, automobiles or other vehicles.
3. CAUSE DAMAGE. To cause any damage or defilement to the public or private property.
4. MOLEST PERSONS. To molest or harm any person on public or private property.

5. MOLEST ANIMALS. To molest or kill wildlife, birds or domestic animals on public or private property.
 6. ACCUMULATION OF ANIMAL WASTE. The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners.
 7. To run at large.
 8. Damages, soils, defiles or defecates on public or 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.
 9. Causes unsanitary, dangerous or offensive condition.
- 1.07 IMPOUNDING. It shall be the duty of the Chief of Police or his/her authorized agent, as approved by him/her, to cause to be taken up and impounded any cat or dog found to be at large within the City contrary to the provisions of this Code. Efforts shall be made to contact the owner if possible in all cases.
- All cats or dogs impounded shall be kept no more than three (3) days after being impounded. At the expiration of such time, if not claimed or redeemed, they may be either turned over to a society organized for the express purpose of prevention of cruelty to animals or humanely destroyed, or if deemed advisable, may be sold or given to a reliable individual at the discretion of the Chief of Police. All collars and appurtenances affixed to said animal when impounded shall be disposed of as deemed necessary. Prior to release of said animals to individuals by sale or by gift, all animals shall receive proper immunization, these fees to be paid for by the new owner.
- If the animal is claimed or redeemed, the owner shall immediately abide by the regulations herein established before release is made by the person having custody and an impounding fee is established by the particular veterinary clinic, shall be paid to the clinic.
- 1.08 DOGS AND CATS NOT CLAIMED. Any impounded dogs or cats not claimed shall be disposed of in a humane manner in accordance with the law.
(Code of Iowa, Sec. 351.37)
- 1.09 DISPOSAL FEE. A disposal fee on all cats or dogs shall be at the rate as established by the particular veterinary clinic and paid for by the owner if established, or by the City in all other cases.
- 1.10 LIABILITY FOR IMPOUNDING FEE. If a cat or dog is impounded for a violation of this Ordinance, the owner shall pay all impounding fees, whether they claim or redeem said cat or dog or not, provided that it can be established who is the rightful legal owner.
- 1.11 NUMBER OF DOMESTIC ANIMALS. The combined number of dogs/canine and cats/feline older than three months shall not exceed three (3) per residence or place of

business (excluding bona pet stores, animal grooming shop, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals). A dog/canine, or a cat/ feline is considered full-grown at the age of twelve (12) weeks of age.

(Editor's Note: Section 1.11 Number of Domestic Animals was added at time of updating 2014 Code Book.)

CHAPTER 1: ANIMAL CONTROL AND PROTECTION

ARTICLE 2 - ANIMALS

2.01 DEFINITIONS. For use in this article the following terms are defined:

1. “ANIMAL” shall mean all living creatures not human.
2. “AT LARGE” shall mean any animal found off the premises of the animal’s owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. “DANGEROUS ANIMAL” shall mean:
 - a. “Dangerous Animal” shall mean any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and 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. The following animals are deemed to be dangerous animals per se:
 1. All poisonous animals including rear-fang snakes
 2. Alligators and crocodiles
 3. Apes (chimpanzees, gibbons, gorillas, orangutans, and siamangs “Y”
 4. Baboon
 5. Badgers, wolverines, weasels, skunks, mink, ferrets, martens, otters and other mustelids
 6. Bats
 7. Bears
 8. Bison
 9. Bobcats
 10. Cheetahs
 11. Constrictor snakes
 12. Coyotes
 13. Deer
 14. Emu
 15. Foxes
 16. Gamecocks and other fighting birds
 17. Gila monsters
 18. Hippopotamus
 19. Hyenas
 20. Jaguars
 21. Leopards
 22. Lions
 23. Lynxes
 24. Monkeys

25. Mountain lions
 26. Ostriches
 27. Piranha fish
 28. Pot-bellied pigs
 29. Pumas, also known as cougars, mountain lions and panthers
 30. Rhinoceroses
 31. Scorpions
 32. Sharks
 33. Snow Leopards
 34. Tigers
 35. Wolves
 36. Any cross breed of such animals which have similar characteristics of the animals specified above
 37. Any animals declared to be dangerous by the City
4. “PETS” shall mean both male and female cats, dogs, horses, ponies, mules, birds, fowl, rabbits, and other pets, which are commonly kept by members of the public for family and personal enjoyment which generate waste products which may be offensive to the general public.
 5. “LIVESTOCK” shall mean an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry. Common names for “livestock” are, but are not limited to: cows or cattle, sheep, swine, pigs, chickens, turkeys, horses, ducks, geese, or emus.
 6. “OWNER” shall mean any person owning, keeping, sheltering, or harboring an animal
 7. “VISCIOUS ANIMAL” shall mean any animal, except a dangerous animal per se as listed above, that has chased or attacked or bitten or has attempted to bite or claw a person or persons while running at large and the attack was unprovoked; any animal which shall have attacked or bitten any person without provocation; any animal that has chased, killed or maimed any domestic animal or fowl, or if such animal has been deemed vicious by the court, County Board of Health, City, or other governing body; or when the propensity to attack or bite persons or to chase, kill, or maim domestic animals or fowl shall exist and is known or ought reasonably to be known to the owner.
 8. “ANIMAL WASTE” shall mean the waste product of a pet resulting from normal biological functions and commonly described as “waste”, “dung”, “excrement”, or “defecation” material.

- 2.02 CRUELTY TO ANIMALS. It shall be unlawful for a person to torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly beat, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same, or carry the same, or cause the same to be cruelly carried on any vehicle or otherwise, or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the act or omissions herein contemplated be committed either intentionally or negligently.
(Code of Iowa, Sec. 717.2 & 717.3)
- 2.03 ANIMAL CONTESTS. It shall be unlawful for a person to keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or to engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures.
(Code of Iowa, Sec. 717.3)
- 2.04 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cats, cattle, horses, swine, sheep, farm deer, ostriches, rheas, emus or other similar animals or fowl to run at large within the corporate limits of the City.
- 2.05 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine and sheep, or other animals which tend to disrupt the peace and good order of the community.
- 2.06 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.
- 2.07 ANNOYANCE OR DISTURBANCE. It shall be unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.
- 2.08 KEEPING OF DANGEROUS OR VICIOUS ANIMALS PROHIBITED. It shall be unlawful for any person to keep, shelter, or harbor any dangerous or vicious animal as a pet, or act as custodian, temporary or otherwise, for such animal, or keep such animal for any other purpose or in any other capacity within the City of Orange City, Iowa, except as, provided in Sections 2.08(1) and 2.08(2) of this Article.
1. DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 2.08 of this Article shall not apply to the keeping of dangerous animals in the following circumstances:

- a. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, which is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required federal or state licenses, if:
 - i. The animals' location conforms to the provision of the Zoning Ordinance of the City.
 - ii. All animals and animal quarters are kept in a clean and sanitary condition and so maintained so to eliminate objectionable odors.
 - iii. Animals are maintained in quarters so construed as to prevent their escape.
 - iv. No person lives or resides within one hundred feet (100') of the quarters in which the animals are kept.
- b. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

2. EXCEPTIONS TO THE VISCIOUS ANIMALS PROHIBITION.

- a. Animals under the control of a law enforcement or military agency.
- b. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed closure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded with a guard dog shall be prominently posted with a sign containing the wording "Guard Dog", "Vicious Dog" or words of similar import.
- c. No animal shall be deemed vicious as a result of having attacked or injured any person who, at the time of such attack or injury, was committing a willful trespass or was committing or attempting to commit other criminal conduct while on the premises occupied by the owner or keeper of such animal, or was at the time of the injury or attack, teasing, tormenting, abusing or physically assaulting the animal.
- d. No animal shall be deemed vicious as a result of having defended or protected its owner/keeper from an unjustified attack or physical assault.
- e. No animal shall be deemed vicious for causing injury or death to another animal if it was defending itself from an unprovoked attack by such other animal.

3. VIOLATIONS. Any violation of this Section 2.08 shall constitute a municipal infraction punishable by the penalties set forth in Title 6, Article 6, Section 6.02, of this Code of Ordinances.

- a. In addition, any animal found to be in violation of this Section may be immediately impounded or disposed of subject to the terms and conditions set out in paragraph 4.

4. SEIZURE, IMPOUNDMENT AND DISPOSITION.

- a. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, at the discretion of a peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
- b. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premise in the City, the peace officer or his designee shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or his/her designee shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal.
- c. The notice to remove an animal from the City or have it destroyed shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required when such animal has caused serious physical harm or death to any person, in which case the Police Chief or his designee shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- d. The order to remove a dangerous animal or vicious animal issued by the Police Chief or his designee may be appealed to the City. In order to appeal such order, written notice of appeal must be filed with the City Administrator within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal.
- e. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Mayor or his/her designee. The hearing of such appeal shall be before a proper court and shall be scheduled within seven (7) days of the receipt of the notice of appeal or as soon as possible thereafter depending upon the court's schedule. The person filing the notice of appeal must be present at the hearing. Failure to attend such appeal hearing shall constitute a waiver of the right to appeal. The hearing may be continued for good cause. At the conclusion of such

hearing, the court hearing the appeal may affirm or reverse the order of the Mayor or his/her designee. Such determination shall be contained in a written decision and shall be filed with the Clerk of Court after the hearing or any continued session thereof.

- f. If the court affirms the action of the Police Chief or his designee, the court shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person who filed the appeal. Such notice shall be given in writing and shall be served personally or by certified mail.
- g. If the original order of the Mayor or his/her designee is not appealed and is not complied with within three (3) days or the court order after appeal is not complied with within three (3) days of its issuance, the Mayor or her/his designee is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or her/his designee issued pursuant to this chapter and not appealed, or an order of the court after appeal, constitutes a municipal infraction punishable as set out in Title 6, Article 6, Section 6.02, of this Code of Ordinances.

2.09 IMPOUNDMENT. Animals, other than vicious or dangerous animals as defined in Section 2.01, found at large in violation of this chapter shall be seized and impounded, or, at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder. The impounded animal may be claimed by the owner after payment of impoundment fees and penalties. Any animal not claimed within seven (7) days after notice shall be disposed of in a humane manner in accordance with the law.

2.10 ANIMAL WASTE. It shall be prohibited for any animal owner to permit or allow any animal, when at large, or under the control of the owner or under the control of anyone authorized by the owner, to deposit to leave any animal wastes or excrement without removing the offensive material by any reasonable method without delay. Every effort must be made to immediately remove said waste; however, when the delay and removal in unavoidable, a grace period of not more than one hour shall be provided for prompt compliance with the terms of this ordinance.

The provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

2.11 DEAD ANIMAL. The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.

2.12 FEEDING ANIMALS. It shall be illegal for any person to feed and water any stray or feral animal. Owners shall only put out food and water sufficient to meet the needs of the animals under their care. For purposes of this ordinance, stray or feral animal is deemed to be animal

that is unowned, unclaimed, or a cat or dog that does not possess a collar, harness or identification. This provision does not apply to the feeding of wild birds or squirrels.

(Editor's Note: Section 2.12 Feeding Animals was added at the time of updating the Code Book in 2014).

- 2.13 PENALTY. The penalty for violation of this Chapter, except for violations of Section 2.08 which are specifically provided for therein, shall be a simple misdemeanor punishable by a fine not to exceed \$100.00 and each separate event violating these provisions shall be considered a separate offense.

CHAPTER 2: MISDEMEANORS

ARTICLE 3 - PUBLIC PEACE

3.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against the public peace and providing for their abatement.

3.02 ASSAULT. No person shall, without justification, commit any of the following:

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1 [1])

2. Threat of Pain or Injury. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1 [2])

However, where the person doing any of the above enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds or at an official school function regardless of the location, the act is not an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

3.03 AFFRAY. It shall be unlawful for two (2) or more persons voluntarily or by agreement to engage in any fight, or use any blows or violence towards each other in an angry or quarrelsome manner, in any public place, to the disturbance of others.

3.04 UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a

part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

(Code of Iowa, Sec. 723.2)

3.05 DISORDERLY CONDUCT. A person commits a simple misdemeanor when the person does any of the following:

1. **FIGHTING**. Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, 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. **NOISE**. Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.
(Code of Iowa, Sec. 723.4(2))
3. **ABUSIVE LANGUAGE**. Directs abusive epithets or makes 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))
4. **DISRUPT LAWFUL ASSEMBLY**. Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
(Code of Iowa, Sec. 723.4(4))
5. **FALSE REPORTS**. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
6. **DISRESPECT OF FLAG**. Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.
(Code of Iowa, Sec. 723.4(6))
7. **OBSTRUCT USE OF STREETS**. Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
(Code of Iowa, Sec. 723.4(7))
8. **FUNERAL OR MEMORIAL SERVICE**. A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:

- a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service, or participating in the funeral procession.
- b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

This subsection applies to conduct within sixty minutes preceding, during, and within sixty minutes after a funeral, memorial service, funeral procession, or burial.
(Code of Iowa, Sec. 723.5)

- 3.06 UNLAWFUL ASSEMBLY AND RIOT. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

- 3.07 FAILURE TO DISPERSE. A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

(Code of Iowa, Sec. 723.3)

- 3.08 TEMPORARY CIVIL DISORDER. The following shall apply:
(Code of Iowa, Sec. 372.14(2))

1. DECLARATION. The Mayor may declare a state of civil disorder within the city or its parts if he/she has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.
2. TEMPORARY RESTRICTIONS. The Mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the city is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.
 - c. Order the cessation of the sale or other distribution of explosives or flammables.

- d. Order the closing of all or some public parks, public streets or other public places during specified hours.
 - e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.
3. TERMINATION. Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the Mayor's declaration of civil disorder, or upon his/her declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the Mayor may be extended by successive resolutions of the council for additional time periods. The period of any one extension shall not exceed five (5) days.
- 3.09 PARADES. No person shall conduct or cause any parade on any street except as provided in this section.
- 1. DEFINITION. "Parade" shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized manner, or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
 - 2. PERMIT. No parade shall be conducted without a written permit obtained from the Mayor or Police Chief in the Mayor's absence. Such permit shall state the time, date and general route of the parade, and no permit fee shall be required. The written permit granted to the sponsors or organizers of the parade shall be permission for participants invited by the permittee to parade. Any denial of a permit may be appealed to the Council.
 - 3. PARADE NOT A STREET OBSTRUCTION. Any parade authorized by a permit and in which the persons are lawfully participating shall not be deemed a street obstruction, notwithstanding the provisions of any other ordinance to the contrary.
 - 4. CONTROL BY POLICE AND FIREMEN. Parade participants shall be subject at all times to the lawful orders and directions of police and fire department members in the performance of their duties.
 - 5. EXCEPTIONS. The provisions of this ordinance shall not apply to regularly scheduled events sponsored by community schools, colleges or the Tulip Festival Steering Committee.
- 3.10 EXCESSIVE ACCELERATION. It shall be unlawful for any person in the operation of a motor vehicle, including motorcycles or mopeds, to so accelerate such vehicle as to cause audible noise by the friction of the tires on the pavement, or to cause the front wheel of a motorcycle or moped to leave the ground, except when such acceleration is reasonably necessary to avoid a collision.

- 3.11 HARASSMENT BY VEHICLE. It shall be unlawful for any person or persons to use or involve any motor vehicle in the harassment, threatening, bothering, interfering, defacing, harming, or damaging, or attempting to do so, any other person, place or property within the City of Orange City.
- 3.12 NOISE GENERALLY. It is a violation to disturb the peace with excessive, loud or unusual noise by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking device or noisemaker

(Editor's Note: Section 3.12 was added at time of 2008 Codification.)

- 3.13 TIRE NOISE. It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud or unusual noise to come from the tires of said vehicle.
- 3.14 LOUD, UNNECESSARY OR UNUSUAL NOISE: Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person or normal sensitivities residing in the area.
- 3.15 HARASSMENT. No person shall commit harassment.
1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:
Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
(Code of Iowa, Sec. 708.7)
 - a. Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.
(Code of Iowa, Sec. 708.7)
 - b. Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.
(Code of Iowa, Sec. 708.7)
 - c. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.
(Code of Iowa, Sec. 708.7)

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, “personal contact” means an encounter in which two or more people are in visual or physical proximity to each other. “Personal contact” does not require a physical touching or oral communication, although it may include these types of contacts.

(Code of Iowa, Sec. 708.7(2))

(Editor’s Note: Section 3.13, 3.14 & 3.15 were added at time of 2008 Codification.)

3.16 DISORDERLY HOUSE.

1. Definition. The term “disorderly house” means any structure or any room therein, or any part of the premises adjacent therefrom, in or upon which occurs any disorderly conduct as defined in Section 1.05 of this Article or any of the following prohibited activities:
 - a. The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
 - b. Gambling in violation of Chapter 99B of the Iowa Code;
 - c. Dispensing, selling or consumption of an alcoholic beverage in violation of Chapter 123 of the Iowa Code;
 - d. Acts of prostitution, pimping or pandering as defined in Chapter 725 of the Iowa Code;
 - e. Engaging in a massage therapy business without a license.
2. Keeping a Disorderly House. It is unlawful for any person to knowingly keep a disorderly house as defined in this section. For purposes of this section, “keep” means ownership or having the control of a structure or a room therein or any part of the adjacent premises.
3. Frequenting or Being Found in a Disorderly House. It is unlawful for any person to frequent or be found in a disorderly house as defined in this section.

CHAPTER 2 MISDEMEANORS

ARTICLE 4 - PUBLIC MORALS

- 4.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public morals and providing for their abatement.
- 4.02 BLASPHEMOUS OR OBSCENE LANGUAGE. It shall be unlawful for a person to use blasphemous or obscene language publicly, to the disturbance of the public peace and quiet.
- 4.03 INTOXICANTS AND INTOXICATION. The following shall be unlawful:
1. ILLEGAL KEEPING OF INTOXICANTS. To operate, conduct, or allow to be operated a place where intoxicating liquor is illegally kept, sold or given away.
 2. CONSUMPTION IN PUBLIC PLACES. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated in a public place.
(Code of Iowa, Sec. 123.46)
 3. SIMULATE INTOXICATION. A person shall not simulate intoxication in a public place.
(Code of Iowa, Sec. 123.46)
- 4.04 INDECENT EXPOSURE. No person shall expose those parts of his or her body listed herein to another in any public place, or in any place where such exposure is seen by another person or persons in any public place.
1. PROHIBITION. Exposure of the following in a public place is prohibited:
 - a. A woman's nipple, or aureole, or full breast, except as necessary in the feeding of any infant under the age of thirty-six (36) months.
 - b. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting those body parts of an infant of either sex.
 2. EXEMPTION. This section shall not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or other such places where such exposures occur incident to the prescribed use of those facilities, nor shall it apply to exposures occurring in live stage plays, live theatrical performances, or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

CHAPTER 2: MISDEMEANORS

ARTICLE 5 - MINORS

5.01 DEFINITIONS. The following terms shall have the meanings defined below:

1. "MINOR" shall mean a person less than eighteen (18) years of age.
2. "LEGAL AGE" shall be as set forth in section 123.3(24) and 123.47 of the Code of Iowa.
3. "EMERGENCY ERRAND" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident, other accidental injury or serious illness, or any other situation requiring immediate action to prevent further serious illness, bodily injury or loss of life.
4. "KNOWINGLY" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable community standard of adult responsibility through an objective test. It shall, therefore, be no offense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
5. "MINOR" means any unemancipated person under the age of eighteen (18) years of age.
6. "NON-SECURED CUSTODY" means custody in an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing non-secured custody only while awaiting transfer to an appropriate juvenile facility or to court for contacting of and release to the person's parents or their responsible adult or for other administrative purposes but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention, or such other rules as may be in effect by State Code from time to time.
7. "PUBLIC PLACE" shall include shopping centers, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and shall also include such parts of buildings and other premises, whether publicly or privately owned, which are used by the general public or to which the general public is invited commercially, for a fee or otherwise, or in or on which the general public is permitted without specific invitation or to which the general public has access. For purposes of this chapter, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

8. "RESPONSIBLE ADULT" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
 9. "UNEMANCIPATED" means unmarried and still under custody or control of a responsible adult.
- 5.02 MINORS IN TAVERNS. It shall be unlawful for any person under legal age to enter, remain in, or frequent a business establishment holding a retail liquor or beer permit unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods.
- 5.03 SUPPLYING LIQUOR TO MINORS. It shall be unlawful for any person to sell, give or otherwise supply liquor or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to a person by a physician or dentist for medicinal purposes.
(Code of Iowa, Sec. 123.47)
- 5.04 CURFEW.
1. PURPOSE. The City Council of Orange City, Iowa, hereby determines that a curfew for minors and prevention of loitering is necessary to promote the public health, safety, morals and general welfare of this City, and specifically to achieve the following purposes:
 - a. Reinforce the primary authority and responsibility of the adults responsible to minors;
 - b. Recognize the peculiar vulnerability of minors;
 - c. Recognize the inability of minors to make critical decisions in an informed, mature manner;
 - d. Protect minors from improper influences and criminal activity by individuals and by gangs that prevail in public places after the curfew hour.
 2. CURFEW ESTABLISHED & LOITERING OF MINORS PROHIBITED. It is unlawful for any minor to loiter, idle, wander, stroll, or play in or upon any public streets, highways, alleys, or vacant lots or, if such minor is not accompanied by his or her parent, guardian, or other adult person then having the care and custody of the minor, in any public parks, public buildings, places of amusement and entertainment during the following times:
 - a. Minors under the age of sixteen (16) years - 10:00 p.m. until 6:00 a.m. the following day;

- b. Minors aged sixteen (16) or seventeen (17) years - 12:00 midnight until 6:00 a.m. the following day.
- 3. EXCEPTIONS. The following are the exceptions to the curfew:
 - a. The minor is accompanied by a responsible adult;
 - b. When the minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there;
 - c. The minor is present at or is traveling between home and one of the following:
 - i. Minor's place of employment in a business, trade, or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;
 - ii. Minor's place of religious activity or, if traveling within one hour after the end of the religious activity;
 - iii. Governmental or political activity or, if traveling within one hour after the end of the activity;
 - iv. School endorsed activities, including parent sponsored activities and Community Education sponsored activities organized in cooperation with the school, or, if traveling, within one hour after the end of the activity;
 - v. Assembly, such as a march, protest, demonstration, sit-in; meeting of an association for the advancement of economic, political, religious, or cultural matters; or for any activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly, or, if traveling, within one hour after the end of the activity.
 - d. The minor is on an emergency errand for a responsible adult.
 - e. The minor is engaged in interstate travel through the city beginning, ending, or passing through Orange City, Iowa, when such travel is by direct route.
- 4. RESPONSIBILITY OF ADULTS. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the city within the time periods prohibited by this Section unless the minor's presence falls within one of the above exceptions.
- 5. RESPONSIBILITY OF BUSINESS ESTABLISHMENTS. It is unlawful for any person, firm, or corporation operating a place of business or amusement to

knowingly or negligently permit or allow any minor to be in or upon any place of business or amusement operated by them within the curfew hours set herein, subject to listed exceptions.

6. ENFORCEMENT PROCEDURES.

- a. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence, such as birth certificate or driver's license, a police officer on the street shall, in the first instance, use his or her best judgment in determining age.
- b. Grounds for Arrest. Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the Chapter; refuses to provide proper identification or identify the person's self; or constitutes an immediate threat to the person's own safety or the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody, either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
- c. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
- d. Minor Without Adult Supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian, or other person legally responsible for the care of the minor within a reasonable period of time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child, or another adult person who is known to the minor.

7. PENALTIES.

- a. Responsible Adult's Violation - Simple Misdemeanor. Any responsible adult, as defined in this Chapter, who knowingly allows a minor to violate any of the provisions of this Section shall be guilty of a simple misdemeanor and, upon conviction, shall be punished by a fine not exceed two hundred dollars (\$200.00).
- b. Minor's Violation - Simple Misdemeanor. For a minor's violation of any one of the provisions of this Chapter, the minor shall be guilty of a simple misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed two hundred dollars (\$200.00). As an alternative, the Court may

order the minor to perform community service if the minor presents an acceptable plan of community service prearranged with a willing public or non-profit private agency or if the Court can otherwise arrange such a plan.

- c. Business Establishment - Simple Misdemeanor. Any person, firm, or corporation who violates Chapter 2 Section 5.04(5) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200.00).

5.05 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, posses, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

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

5.06 CONTRIBUTING TO DELINQUENCY. It is unlawful for any person to encourage any child under eighteen (18) years of age to commit any act of delinquency.

(Code of Iowa, Sec. 709A.1)

(Sections 5.05 and 5.06 were added at time of 2007 Codification.)

CHAPTER 2: MISDEMEANORS

ARTICLE 6 - PUBLIC HEALTH AND SAFETY

6.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public health and safety and providing for their abatement.

6.02 DISCHARGING FIREARMS, FIREWORKS & WEAPONS.

1. It shall be unlawful for a person or corporation to discharge or fire any cannon, bomb, rifle, shotgun, revolver, pistol, gun, air rifles or air gun or a firearm of any kind, or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive within the city limits except by a police officer in the line of duty. No person shall intentionally discharge a firearm in a reckless manner.
2. 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.
3. 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.
4. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
5. 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.

6.03 FALSE ALARMS. It is unlawful for a person to:

1. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
2. A person who reports or causes to be reported false information to a fire department, a law enforcement authority, or other public safety entity, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the act did not occur.
(Code of Iowa 718.6(1))

3. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance.

(Code of Iowa 718.6(2))

4. A person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple misdemeanor, unless the criminal act for which the citation is issued is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.

6.04 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or across any street, highway, alley, sidewalk or public place.

6.05 SPITTING. It shall be unlawful for a person to spit, including phlegm, within any food establishment, restaurant, hotel, motor inn, cocktail lounge, tavern, public building, or place of business, or within any park or playground, or spit onto any sidewalk, street or onto a building or structure within the city, or any public place

6.06 SALE OF TAINTED FOOD. It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.

6.07 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight 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 structure, under his/her or their 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, ice box 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)

6.08 ANTENNA AND RADIO WIRES. It shall be unlawful for a person to allow 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))

6.09 BARBED WIRE AND ELECTRIC FENCE. It shall be unlawful for a person to use barbed wire or electric fence to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.

- 6.10 FIREWORKS. It shall be unlawful for any person, firm, co-partnership, or corporation to offer for sale, expose for sale, sell at retail, or use or explode any fireworks, provided the City may, upon application in writing, grant a permit for the display of fireworks by city agency, fair associations, amusement parks, and other organizations or groups of individuals approved by city authorities when such fireworks display will be handled by a competent operator. This shall not be construed to prohibit any resident, dealer, manufacturer, or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped out of state; or the sale or use of blank cartridges for a show or theater or for signal purposes in athletic sports or by railroads, trucks, for signal purposes. or by a recognized military organization, provided further that nothing in this section shall apply to any substance or composition prepared and sold for medicinal or fumigation purposes. This section applies to "fireworks" as defined in Title 5 Chapter 3, Article 5 of this Code.
- 6.11 URINATION AND DEFECATION. It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, public place or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto public or private land.
- 6.12 DISTRIBUTING DANGEROUS SUBSTANCES. Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, Sec. 727.1)

(Editor's Note: Sections 6.11 and 6.12 were added at time of 2007 Codification.)

CHAPTER 2: MISDEMEANORS

ARTICLE 7 - PUBLIC PROPERTY

- 7.01 PURPOSE. The purpose of this article is to define and prohibit offenses against public property and provide for their abatement.
- 7.02 DEFACING PUBLIC GROUNDS. It shall be unlawful for a person to cut, break or deface any tree, shrub, flower beds or plantings on public property or on any public way by willfully defacing, cutting, breaking or injuring.
(Code of Iowa, Sec. 364.1 & 364.12(2))
- 7.03 PUBLIC BUILDINGS. It shall be unlawful to willfully write, make marks, or draw characters on the walls or any other part of any church, college, academy, schoolhouse, courthouse, or other public building, or on any furniture, apparatus, or fixture therein; or to willfully injure or deface the same, or any wall or fence enclosing the same.
- 7.04 DAMAGE TO PUBLIC OR UTILITY PROPERTY. It shall be unlawful for a person to maliciously injure, remove, or destroy any railway or apparatus belonging thereto; or any bridge or railroad; or place, or cause to be placed, any obstruction on any railway, or on any bridge or railroad; 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 transmission or distribution, 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 to willfully tap, cut, injure, break, disconnect, connect, make 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 to aid or abet any other person in so doing.
(Code of Iowa, Sec. 716.1)
- 7.05 DEFACING PROCLAMATIONS OR NOTICES. It shall be unlawful for a person to 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 this state, or any proclamation, advertisement or notification, set up at any place within the city by authority of the law or by order of any court, during the time for which the same is to remain set up.
(Code of Iowa, Sec. 716.1)
- 7.06 INJURY TO FIRE APPARATUS. It shall be unlawful for a person to willfully destroy or injure any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires.
(Code of Iowa, Sec. 716.1)

- 7.07 DESTROYING PARK EQUIPMENT. It shall be unlawful for a person to 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. 716.1)
- 7.08 INJURING NEW PAVEMENT. Willfully to 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.
- 7.09 OBSTRUCTING OR DEFACING ROADS. To obstruct, deface, or injure any public road by breaking up, plowing, or digging within the boundary lines thereof.
- 7.10 INJURY TO GRAVESTONES OR PROPERTY IN CEMETERY. It shall be unlawful to 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 or ornamentation of said cemetery, or of any tomb, vault, monument, or gravestone, or other structure aforesaid, on any cemetery on any cemetery lot within such cemetery, or to willfully and maliciously destroy, cut, break, or injure any tree, shrub, plant or lawn within the limits of said cemetery, or to willfully and maliciously throw or leave any rubbish, refuse, garbage, waste, litter, or foreign substance within the limits of said cemetery, or to drive at an unusual and forbidden speed over avenues or roads in said cemetery, or to drive outside of said avenues and roads, and over the grass or graves of said cemetery.
- 7.11 TRESPASS OR PARK UPON CEMETERY OR PARK GROUNDS. It shall be unlawful to cause or permit to occur any trespass or traversing over and upon public grounds, including cemeteries, parks, walking trails or walkways, any vehicles or animals. Such prohibition of off street riding of vehicles or animals for business or pleasure may be posted by sign or written notice and such vehicles or animals may be ridden in such areas only in such places as may be clearly designated and so posted.
- 7.12 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 from the City.

CHAPTER 2: MISDEMEANORS

ARTICLE 8 - PRIVATE PROPERTY

8.01 TRESPASSING. It is unlawful for a person to knowingly trespass onto the property of another. As used in this section, the term "*property*" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned. The term "trespass" means one or more of the following acts:

1. **ENTER PROPERTY WITHOUT PERMISSION.** Enter upon or in private property without legal justification or without the implied or actual permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7)

2. **VACATE PROPERTY WHEN REQUESTED.** Enter or remain upon or in private property without legal justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(Code of Iowa, Sec. 716.7)

3. **INTERFERE WITH LAWFUL USE OF PROPERTY.** Enter upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, Sec. 716.7)

4. **USE OF PROPERTY WITHOUT PERMISSION.** Be upon or in private property and use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7)

The term "trespass" shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This section does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

(Code of Iowa, Sec. 716.7(3))

8.02 DAMAGE TO PROPERTY. It shall be unlawful to cut, hack, break, deface or otherwise injure any ornamental or shade tree, fence, private building, railing or other property.
(Code of Iowa, Sec. 716.1)

8.03 ELECTRONIC AND MECHANICAL EVESDROPPING. Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.
(Code of Iowa, Sec. 727.8)

8.04 THEFT. No person shall take possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.

(Editor's Note: Section 8.04 was added at time of 2007 Codification.)

CHAPTER 2: MISDEMEANORS

ARTICLE 9 - EXECUTION OF PROCESS

- 9.01 INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under Chapter 147A, Code of Iowa, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under Chapter 147A Code of Iowa, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars (\$250.00). However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor.
(Code of Iowa, Sec. 719.1)
- 9.02 RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of the person's self, or another which the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful or the arrest is in fact unlawful.
- 9.03 REFUSING TO ASSIST AN OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.
(Code of Iowa, Sec. 719.2)
- 9.04 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any policeman, fireman, officer, or city official in the discharge of his or her duty.
- 9.05 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees.
(Code of Iowa, Sec. 718.4)

CHAPTER 2: MISDEMEANORS

ARTICLE 10 - STREET PROTECTION

- 10.01 PASTE AND PAINT. It shall be unlawful to scatter or place, or allow to be scattered or placed, any paste, paint, or writing on any sidewalk, street, or public place.
- 10.02 PAPER FROM ADVERTISING. It shall be unlawful to leave any paper removed or coming from billboards on any street or sidewalk, or scatter show bills, hand bills, or other advertising on any sidewalk, street, or alley.
- 10.03 REFUSE ON STREET. It shall be unlawful to throw, place, or deposit, or cause, to permit to be thrown, placed, or deposited, any glass, nails, or other sharp substances, ashes, cinders, straw, paper, sweepings, brush, weeds, spoiled fruit or vegetables, refuse, or rubbish of any kind upon any sidewalk, street, alley, gutter, drain, or public ground.
- 10.04 WEEDS. It shall be unlawful to permit weeds, thistle, brush, or plants to overhang or encroach upon any sidewalk adjoining the owner's property.
- 10.05 OBSTRUCT SIDEWALK. It shall be unlawful to keep, place, or cause to allow to be kept, placed, or stored, any cans, containers, cases, crates, boxes or other things of similar character on any sidewalk, street or alley.
- 10.06 MERCHANDISE ON SIDEWALK. It shall be unlawful to place, or cause to be placed, upon any sidewalk any goods or merchandise for sale or for show, or to suspend the same in such manner as to interfere with the free and uninterrupted passage of the sidewalk by pedestrians.

(Editor's Note: Section 10.06 was amended at time of 2007 Codification.)

- 10.07 APPLICATION FOR PERMIT. Applications for the placement of any obstruction, barricade or display upon any sidewalk, alley, street or other public property for civic or chamber functions or casual sales shall be submitted to the office of the City Clerk. Approval shall be granted for those applications which propose uses deemed compatible with community needs.

Applications for vendors in public parks shall be submitted to the City Council for review and approval. Approval shall be granted for those applications which propose products and equipment deemed compatible with local design standards and in keeping with existing recreational and promotional activities. Each application shall specify the location, frequency of use, and required safety equipment, and the permittee shall furnish proof of insurance coverage in an amount set by the Council.

- 10.08 LOADING AND UNLOADING VEHICLES. It shall be unlawful to cause or allow any hack, automobile, truck, delivery wagon, or other vehicle, except vehicles used by the Police or Fire Department, to occupy more space from curb to curb than the width of the vehicle, except for loading or unloading such vehicles, and then only as long as is necessary for such purposes, unless written by the Mayor.

- 10.09 BUILDING MATERIAL. It shall be unlawful to place or deposit, or allow to be placed or deposited, any building material in any street, without a written permit from the Mayor, subject to revocation by the Council, to use part of the street in front of or adjacent to the lot whereon a building is being erected, for depositing thereon the material for such building, but all material shall be placed in such a manner as not to obstruct the gutters of the street. The person occupying a portion of the street shall at all times enclose or guard the same in such a manner as to protect persons and animals from injury thereby, and with red lights placed and burning the entire night.
- 10.10 PROJECTIONS ON WHEELS. No tire on a vehicle moved on a street shall have its periphery any block, stud, flange, cleat, spike, or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires which have protuberances which will not injure the street and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions, tending to cause a vehicle to skid. However, any traction devices so protruding beyond said periphery that are permitted by state law shall be lawful within the City.
- 10.11 MAXIMUM LOAD. The total maximum load on any one wheel of any vehicle, including the weight of the vehicle and the load it carries, shall be four (4) tons for vehicles equipped with pneumatic tires or three and one half (3 1/2) tons for vehicles equipped with solid rubber tires, provided the total maximum weight of any vehicle or combination of vehicles and load shall not in any event exceed twelve (12) tons plus four hundred fifty (450) pounds for each foot or fraction thereof of distance between the front and rear axles of the vehicle or first and last axles of a combination of vehicles. Two (2) or more wheels on the same end of a given axle shall be considered as one wheel.
- 10.12 OILED AND GRADED STREETS. It shall be unlawful to move or operate on or over any oiled or graded street, alley, or highway any traction engine, road engine, trailer, hauling engine, trailer, steam roller, truck, power vehicle, or other machinery or vehicle having flanges, ribs, clamps, cleats, lugs, or spikes attached to any of its wheels, unless such wheels be covered with metal shields, or unless such sound planks no less than one foot wide and two (2) inches thick be placed and kept continuously under the wheels. This section shall not apply to motor vehicles equipped with rubber tires or prohibit the use of mud chains on rubber tires.
- 10.13 MOVING OF HOUSES. It shall be unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which such house or building is moved shall be at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the engineer or City, as to such weight shall be final, and no house or building shall be moved over pavement without a written permit as provided in Title 4 Article 5.02 of this code being first obtained.
- 10.14 CUT OR DESTROY PAVEMENT. It shall be unlawful to drag or move anything over any roadway or pavement that will cut, injure, or destroy such roadway or pavement.

CHAPTER 2: MISDEMEANORS

ARTICLE 11 - ELECTRICAL INTERFERENCE

- 11.01 ELECTRICAL INTERFERENCE. It shall be unlawful to operate any electrical or other wire device, apparatus, instrument, machine, or thing that causes reasonably preventable electrical interference with any other electrical apparatus, including radio or television receiving sets, until such interference is removed either by removing the apparatus or replacing it with other apparatus which will not cause interference.
- 11.02 X-RAY MACHINES. It shall be unlawful to use any violet ray machine, x-ray machine, electrical vibrator, or any other device, apparatus, instrument or machine, causing electrical interference with radio or television sets that can be prevented between the hours of 6:00 p.m. and 11:00 p.m., except when it may be necessary in making x-ray pictures for examination in emergency cases, or as may reasonably be required in the providing of regular and necessary medical diagnosis functions.
- 11.03 AMATEUR BROADCASTING. It shall be unlawful for amateur radio broadcasters to broadcast on any wave length other than that assigned them by the Federal Communication Commission.
- 11.04 INSPECTIONS. The City Administrator, or his or her duly authorized representatives, shall have the right to enter upon any premises at all reasonable hours for the purpose of inspecting the installation and working of all apparatus coming within the terms of this Article, and it shall be unlawful for any person, firm, or corporation to interfere with the Supervisor of the Electric Department, or his or her duly authorized representatives, in making said inspection, or to refuse to permit the said supervisor or his or her representatives to enter the premises for such purposes.

CHAPTER 3: TREES

ARTICLE 12 - DISEASE & DEAD TREE CONTROL

- 12.01 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, shrub, bush or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within thirty (30) days. Notice shall either be given by personal service or by certified mail with return receipt bearing the signature of the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may thereafter assess the costs against the property for collection in the same manner as a property tax. Code of Iowa, Chapter 364.12(3)(h) allows the City in an emergency to perform any action which may be required to abate the emergency without prior notice, and assess the costs as provided in Chapter 364.12, after notice to the property owner and hearing.
- 12.02 DUTY TO REMOVE. No person, firm or corporation shall permit any diseased tree, dead wood to remain on the premises owned, controlled or occupied by the person within the City.
- (Code of Iowa, Sec, 364.12(3b))
- 12.03 INSPECTION. The City shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Article 12.01 of this Article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to constitute a public nuisance, a hazard to person or property, or harbors insects, other pests, or disease.
- 12.04 REMOVAL FROM CITY PROPERTY. If the City, upon inspection or examination, in person or by some qualified person acting for the City, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property within the City, and that the danger of other trees, shrubs, bushes, or woody vegetation within the City is imminent, the City shall immediately cause the tree, shrub, bush or woody vegetation to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease, or insect pests, or vectors known to carry such disease, insects, and/or fungus.
- 12.05 REMOVAL FROM PRIVATE PROPERTY. If the City upon inspection or examination, in person or by some qualified person acting for the City, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises, and that the danger to other trees within the City is imminent, he/she shall immediately notify by certified mail or personal delivery to the occupant or person in charge of such property, to correct such condition within thirty (30) days of said notification. If such owner, occupant

or person in charge of said property fails to comply within thirty (30) days of receipt thereof, the Council may cause the nuisance to be removed and the cost assessed against the property for collection in the same manner as a property tax.

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

- 12.06 REASONABLE CERTAINTY. If the City is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected, diseased, or harboring insects or pests, a City representative is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

CHAPTER 4: AGRICULTURAL ACTIVITY

ARTICLE 13 - REGULATION OF AGRICULTURAL ACTIVITIES WITHIN THE CITY

- 13.01 TITLE. This article shall be known and may be cited and referred to as the Orange City Agricultural Enterprise Regulations and shall be referred to herein as "this Article."
- 13.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this article shall be held to be minimum requirements. Where this Article imposes a greater restriction than is imposed or required by the provisions of law or by other rules or regulations or ordinances, the provisions of this Article shall control.
- 13.03 DEFINITIONS. For the purpose of this Article, certain terms and words are defined as follows:
1. "Agricultural Enterprise" shall mean any enterprise of activity involving the planting and harvesting of agricultural crops and products on a for-profit basis, such as hay crops, grain crops, soybeans, corn, wheat, oats, barley, alfalfa and other commonly known crops used for livestock and human consumption.
 2. "Garden or Hobby Crops" shall mean residential horticultural practices such as the raising of private vegetable gardens for family production and consumption, together with flower gardens, tulip beds, rose gardens, and other hobby and adornment activities.
 3. "Area Type" within the municipal boundaries, there exists a variety of land uses ranging from intensive residential occupancy to intensive industrial production and older fully developed areas contrasted with newer partially developed growth areas. For the purposes of this Article, the said area types are defined as follows:
 - a. "Vacant Lots." Vacant lots and platted developed areas.
 - b. "Undeveloped." Undeveloped areas surrounded by residential housing.
 - c. "Special Covenants." Special areas designed for light cropping and hobby livestock acreages established by dedication and plat or covenants.
 - d. "Border Area." Fringe or border areas of the community with at least two sides open to the countryside, not surrounded by residences.
- 13.04 PURPOSE. The purpose of this Article is to promote and preserve the health and sanitation and public convenience within the City of Orange City by regulating and prohibiting the accumulation of crop debris, dust, agricultural machine dangers, noise and other nuisances which, though of themselves not a nuisance, may be considered to be a nuisance when placed in close proximity to the residential setting within a municipality.

- 13.05 APPLICATION OF ARTICLE. The regulations of this Article shall not apply to private, occasional or seasonal use of privately owned property for vegetable gardens, flower beds, horticultural experiments or other land uses compatible with residential housing within a municipality.

The raising and harvesting of agricultural crops within the municipality of the City of Orange City as an enterprise or for-profit activity shall be restricted as follows:

1. AREA TYPE #1 - VACANT LOTS. Vacant lots shall be kept weed free and shall be planted to grass and trimmed to a growth height of no more than six inches or less.
2. AREA TYPE #2 - UNDEVELOPED. Any undeveloped areas within the City which are surrounded by residential housing, row crops, such as soybeans and small grains, shall not be permitted except that any owner of two contiguous platted lots which share at least one boundary or any owner of parcels greater in area than one acre may plant and harvest alfalfa hay or other hay crops with a small grain or soybean rotation permitted for one or two years to allow reseeding and with such reseeding practice to occur not more frequently than in four year intervals so that no more than two years out of six years may such nurse crop be planted for the maintenance of an alfalfa or hay crop enterprise. Such excepted areas within area type #2 shall be harvested regularly and cleanly so as to prevent an accumulation of crop residues, noise, dust, and odor, or excessive machine noise. All other parcels within area type #2 shall be restricted to grass or cover crops with a six inch height limit as in the case of area type #1.
3. AREA TYPE #3 - SPECIAL COVENANTS. No restrictions apply in special covenant areas other than may be privately provided for by the terms of such covenants for so long as they may be binding upon the areas in question.
4. AREA TYPE #4 - BORDER AREA. All border areas at the edge or fringe of the municipality may plant and harvest, without restriction, all hay, grain and tow crop produce as is customarily associated with agricultural enterprise in the surrounding rural community. Such agricultural practices shall be exercised in a manner that prevents any unhealthy or unsightly accumulation of crop residues, dust, noise, smell or other nuisance or sanitation risk.
5. AGRICULTURAL MACHINERY - ALL AREAS OF THE CITY. In all areas of the City those engaged in agricultural enterprise shall limit the size and speed of agricultural machinery to assure safety and comfort of the residential neighborhood affected by such enterprise. No agricultural machine shall be of such size that it may cause permanent injury or damage to curbs, sidewalks or other improvements at the time and manner of the use of such equipment shall be exercised so as to minimize the impact upon residential neighbors.

6. APPLICATION OF ALL OTHER FEDERAL, STATE AND COUNTY REGULATIONS. Agricultural enterprises permitted within the municipal boundaries of the City of Orange City shall continue to be regulated by all federal, state or county regulations regarding the type and quantity of fertilizers, chemicals or other crop aids which may endanger the community.
- 13.06 VIOLATIONS AND PENALTIES. Any person who violates, disobeys, omits, neglects, refuses to comply with, or who resists enforcement of any of the provisions of this Article shall, upon conviction, be fined not more than \$200.00 for each separate offense. Each day the violation is permitted to exist constitutes a separate offense.

TITLE 8 - PUBLIC WAYS

CHAPTER 1: SIDEWALKS

ARTICLE 1 - SIDEWALK REGULATIONS

1.01 CONSTRUCTION, RECONSTRUCTION, AND ASSESSMENT OF COSTS.

1. **PERMANENT SIDEWALKS.** The City Council may by resolution order the construction or reconstruction of permanent sidewalks upon any street, highway, avenue, or court, the construction of said permanent sidewalks, shall not be made until the bed of the same shall have been graded so that when completed such sidewalks will be at the established grade and the surface three (3) inches above the adjoining grade. Unless the owners of a majority of the linear feet of property fronting on the improvement petition the Council therefore, the same shall not be made, unless three-fourths (3/4) of all the members of the Council, by vote, order the making thereof.
2. **TEMPORARY SIDEWALKS.** The Council may by resolution order the construction or reconstruction of temporary sidewalks upon any street, highway, avenue, or court, which has not been brought to the established grade, at a reasonable cost and may assess the cost thereof against the property in front of which the same shall be laid. No temporary sidewalk shall be ordered except by a vote of three-fourths (3/4) of the members of the Council.
3. **ORDERING CONSTRUCTION.** The resolution ordering the construction or reconstruction of any sidewalk shall specify the street along which the property in front of which the sidewalk shall be constructed or reconstructed, the material to be used and the character or kind of sidewalk to be built, the width thereof, and the time within which the same shall be completed.
4. **CITY MAY CONSTRUCT.** If the owner of any lot or parcel of ground in front of which a sidewalk is ordered constructed or reconstructed, shall fail, neglect, or refuse to construct or reconstruct the sidewalk within the time prescribed by the resolution ordering said improvement, the Council shall cause such improvement to be made and the costs and expenses thereof shall be assessed against the lots or parcels of ground adjoining and abutting which such improvement is made.
5. **CONSTRUCTING SIDEWALKS.** All such improvements made by the City shall be done either by the Public Works Director or under written contract as the Council shall decide. If the improvement is constructed by the Public Works Director, he or she shall keep an itemized account of the cost and file a certified statement of the cost with the Clerk. If constructed by contract, the contractor shall furnish a good and sufficient bond with sureties approved by the Council for the faithful performance of the contract and keeping the sidewalks in good repair for not less than three (3) years after the acceptance of the same by the Council. The Mayor, or in case of the Mayor's absences or inability to act, Mayor Pro Tempore, shall sign such contract on behalf of the municipality, but not until the bond has been approved by the Council.

6. **COST ASSESSED.** Whenever any improvement is constructed or reconstructed by the City, as provided above, the cost and expense of the construction or reconstruction of such sidewalk shall be assessed, by resolution, against the lot or parcel of ground adjoining and abutting which the same is constructed.
7. **NOTICE OF PAYMENT.** Upon the passage of the resolution making the assessment, the Clerk shall prepare assessment certificates of the improvement, and give thirty (30) days notice, as provided in Title I of this code, that such certificates are ready and that the same may be paid for in cash at the Clerk's office any time within thirty (30) days and before certified to the County Auditor. If the aggregate of all assessments against the property of the owner for sidewalks is Twenty-five dollars (\$25.00) or less, such assessment shall be paid in one installment and within thirty (30) days following the levy.
8. **PAYMENT FOR WORK.** When the improvement is constructed under contract, the certificates not paid for in cash at the end of thirty (30) days shall be issued and delivered to the contractor doing the work, in full payment for all labor performed and material furnished in the construction or reconstruction of the sidewalks covered by such certificates.
9. **PAYMENT UNDER WAIVER.** Unless the owner of any lot or parcel of land, against which an assessment for permanent sidewalk is made, shall within thirty (30) days from the date of the assessment, file written objections to the legality or regularity of the assessment or levy of such tax upon and against his or her property, such owner shall be deemed to have waived objections on these grounds and shall have the right to pay said assessment with interest thereon, not exceeding six percent (6%) per annum, in seven (7) equal installments, the first of which shall mature and be payable on the date of said assessment and the other, with interest on the whole amount unpaid, annually thereafter, at the same time and in the same manner as the March semi-annual payment of ordinary taxes.
10. **DELINQUENT TAX.** Each installment of such taxes, with interest, shall become delinquent on the first day of March next after its maturity, and shall bear the same rate of interest, with same penalties as ordinary taxes.
11. **CERTIFICATE OF LEVY.** A certificate of levy of all such special assessments, not paid for in cash, fixing the number of installments and the time when payable, certified as correct by the Clerk, shall be certified by the Clerk to the County Auditor as a special tax against the lot, or parcel of land, and shall be collected by the county treasurer in the same manner as all other taxes.

1.02 REPAIRING, CLEANING, AND ASSESSMENT OF COSTS.

1. **REPAIRS.** It shall be the duty of the Public Works Director to repair, or cause to be repaired, without notice to the property owner, all known or reported defective sidewalks when in an unsafe condition. He or she shall return to the Council an itemized and certified statement of expenditures of material and of the labor used

in making such repairs, and the description of the lot, part of lot, or parcel of ground in front of and abutting which such repairs are made.

2. **CLEANING.** It shall be the duty of the Public Works Director to remove, or cause to be removed, all known or reported snow, ice, or accumulations from abutting property from the sidewalks, without notice to the property owner, if the same has remained upon the sidewalk for the period of ten (10) hours, but the expense shall not exceed a reasonable fee for such work. He or she shall return to the Council an itemized and verified statement of expenditures of material and labor used in making such removal, and the description of the lot, part of lot, or parcel of ground in front of and abutting which such snow, ice, or other accumulations was removed.
 3. **NOTICE TO OWNERS.** Upon the filing of the verified statement, the Clerk shall cause a notice of such facts to be given to all persons liable for such expense, either by personal service or by mailing to the last known address of the person liable for such expense, which notice shall contain a statement of the character of the work performed, a description of the property affected, and the amount returned against such lot, part of lot, or parcel of ground, together with a statement of the time and place at which objections to the assessment of such cost to the benefited property may be made, which time shall be not less than ten (10) days after the service or mailing of said notice.
 4. **HEARING OBJECTIONS.** At the time and place designated in such notice, the Council shall meet, hear, and consider all objections to the whole or any party of such assessment, and shall correct all errors of omissions therein, and after such consideration, the Council shall adopt the corrected list as the amounts to be assessed against the property therein described.
 5. **ASSESSING COST.** After the correction of such corrected list, the Council shall by resolution assess the amounts against each lot, part of lot, or parcel of ground, and all such assessments or any part thereof which shall remain unpaid on the first Monday of November of each year, shall be certified by the Clerk to the County Auditor, as a special tax against the lot, part of lot, or parcel of ground, and shall be collected by the county treasurer in the same manner as all other taxes.
- 1.03 **ENCROACHING STEPS.** It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.
- 1.04 **AWNINGS.** It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.
- 1.05 **FIRES ON SIDEWALK.** It shall be unlawful for a person to make a fire of any kind on any sidewalk.

- 1.06 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.
- 1.07 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.
- 1.08 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.
(Code of Iowa, Sec. 364.12(2))

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 2 - NAMING OF STREETS

- 2.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:
1. EXTENSION OF EXISTING STREET. Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.
 2. NAMED BY ORDINANCE. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by Ordinance.
(Code of Iowa, Sec. 592.7)
 3. STREET COMMISSION. Proposed street names shall be referred to the council for review and recommendation before placing on plats or presentation of a street name ordinance, or placing on the official map.
(Code of Iowa, Sec. 592.7)
- 2.02 SYSTEM OF NAMING AND NUMBERING. The streets within the corporate limits of the City of Orange City, Iowa, shall be named and numbered in accordance with the quadrant system of naming and numbering streets, the intersection of First Street and Central avenue, as presently designated, shall be the center point of said quadrant system, and that all north-south streets be referred to and designated as avenues and when south of Iowa Highway #10 be designated as place, and all east-west streets be referred to and designated as streets.
- 2.03 STATES AND CAPITALS USED AS NAMES. The east-west street intersecting the center point of the quadrant, as designated in section 2.02 above, shall be known and referred to as First Street and the north-south street intersecting the center point of the quadrant shall be known and referred to as Central Avenue; all avenues west of Central Avenue shall be and are named in accordance with the name of a state of the United States of America, in alphabetical order and that all avenues east of Central Avenue shall be named in accordance with the name of the state capital of the states of the United States of America in alphabetical order; all streets north and south of First street shall be designated by Arabic Numerals beginning with Second Street.
- 2.04 QUADRANTS NAMED. All four (4) quadrants shall be referred to as Northeast, Southeast, Southwest, and Northwest from center point of quadrant system.
- 2.05 HOUSE NUMBERS. All house numbers, as now designated, shall remain unchanged.
- 2.06 RECORDING STREET NAMES. Following adoption of an ordinance naming or changing the name of a street, the Mayor and Clerk shall certify and file a copy thereof with the County Recorder and County Auditor.
(Code of Iowa, Sec. 592.7)

- 2.07 OFFICIAL STREET NAME MAP. Streets within the city are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this article. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the city under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 2.08 of Title 7 of the Municipal Code of Orange City.
- 2.08 REVISION OF STREET NAME MAP. If in accordance with the provisions of this Article, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the governing body with an entry on the Official Street Name Map as follows: "On (date), by official action of the city council, the following change(s) were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk. No amendment to this article which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.
- 2.09 CHANGING NAME OF STREET. The council may by ordinance change the name of a street.

(Code of Iowa, Sec. 592.7)

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 3 - VACATION AND DISPOSAL

- 3.01 POWER TO VACATE. When in the judgment of the council it would be in the best interest of the city to vacate a street or alley, or portion of a street or alley, they may do so in accordance with the provisions of this article.
(Code of Iowa, Sec. 364.12(2a))
- 3.02 NOTICE OF VACATION HEARING. The council shall cause to be published a notice of public hearing, at which time the proposal to vacate shall be considered. In addition to published notice, notice shall be posted at least twice on each block along the street or alley proposed to be vacated not more than 25 days nor less than 10 days prior to the date set for the hearing.
- 3.03 FINDINGS REQUIRED. No street or alley, or portion of a street or alley shall be vacated unless the council finds that:
1. PUBLIC USE. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
 2. ABUTTING PROPERTY. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.
(Code of Iowa, Sec. 364.15)
- 3.04 DISPOSAL OF STREETS OR ALLEYS. When in the judgment of the council it would be in the best interest of the city to dispose of a vacated street or alley, or portion of a street or alley, they may do so by resolution following notice and hearing.
(Code of Iowa, Sec. 364.7)
- 3.05 DISPOSAL BY GIFT LIMITED. The city may not dispose of a vacated street or alley, or portion of a street or alley, by gift except to a governmental body for a public purpose.
(Code of Iowa, Sec. 364.7(3))
- 3.06 VACATIONS. The following streets, alleys, or parts thereof as originally set out by recorded plat, original, or as addition to the municipality, are hereby vacated; and the prior action taken by the Council to vacate any of such streets or parts thereof, is hereby approved and confirmed, to wit:

Sixth Street between Blocks One (1) and Eight (8) and Two (2) and Seven (7), from west line of Block Two (2) to the east line of Block Eight (8); Grant Street running north and south between said Blocks One (1) and Two (2), Seven (7) and Eight (8) from the north line of Block One (1) to the south line of Block Eight (8) from the north line of Block One (1) to the south line of Block Eight (8), and the alley in said Block Seven, and all in East Addition to Orange City; Central Street, between Blocks Thirty-five (35) and Thirty-six (36) in South Addition to South Addition to Orange City; the north Fifty (50) feet of the alley running north and south; in Block Seventeen (17) of Original Plat of Orange City; in west one hundred and thirty-four (134) feet of alley running east and west in Block Five

(5), East Addition to Orange City, and all according to recorded plats thereof; the alley in Block Forty-two (42) of Original Plat of Orange City, Iowa; the alley in Block Thirty-nine (39) of South Addition, Orange City, Iowa as lies north of and is adjacent to Lots One (1), Two (2), Three (3), Four (4), and Five (5), South Addition of Orange City, Iowa; that portion of the alley platted as part of Replat of Outlots One (1), Two (2), Three (3) and Four (4) of Block Four (4), Replat of Outlots One (1), Two (2), Three (3) Four (4), and Five (5), South Addition of Orange City, Iowa; that all of the platted alleys in Block Forty (40), South Addition to the Incorporated City of Orange City, Iowa, except the north one hundred (100) feet of the alley running north and south in said block; or that portion of said alleys lying between Lots One (1) and Two (2), and Lots Six (6) and Seven (7) of said blocks be and hereby are vacated.

- 3.07 VACATION ORDINANCES. The following ordinances list the public ways which have been vacated through ordinance by the City of Orange City.

Ordinance No. 615

Ordinance No. 629

Ordinance No. 630

Ordinance No. 634

Ordinance No. 665

Title 8, Chapter 4, Section 1, Vacations, City Code, 1980

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 4 - STREET GRADES

- 4.01 CITY MAY ESTABLISH. The City may establish street grades on the streets and avenues of the City of Orange City as is determined to be necessary and advisable. Copies of established street grades are available at the City Clerk's Office.

CHAPTER 3: TREES

ARTICLE 5 - GENERAL PROVISIONS

- 5.01 PLANTED. All trees hereafter planted in any street, avenue, or highway shall be a variety approved by the city council and shall be planted midway between the outer line of the sidewalk and the curb where the curb line is established, and where the curb line is not established, on a line ten feet from the property line. All trees now or hereafter planted in any street avenue, or highway, that interfere with the making of any improvements thereon, or with travel, or become dangerous, shall be removed by order of the Council, and any tree, once planted shall not be removed unless by order of the Council.
- 5.02 REMOVAL OF TREES. The city shall have removed, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. The Council shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public or which may otherwise be declared a nuisance.
(Code of Iowa, Sec. 364.12(2c))
- 5.03 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 ten (10) feet above the sidewalks.
(Code of Iowa, Sec. 364.12(2c))
- 5.04 TRIMMING TREES TO BE SUPERVISED. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the city.
- 5.05 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring the abutting property owner to do so within five (5) days. If the property owner fails to trim the trees within that time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(2d & e))
- 5.06 REMOVAL. Trees when once planted shall not be removed unless on written consent of the Council.

TITLE 9 - TRAFFIC CODE

CHAPTER 1: TRAFFIC CODE

ARTICLE 1 - GENERAL PROVISIONS

1.01 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

1. "PARK" OR "PARKING" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
3. "STOP" shall mean when required, the complete cessation of movement.
4. "STOP" OR "STOPPING" shall mean, when prohibited, 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 peace officer or traffic control sign or signal.
5. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets:

The areas of the City described in Zoning District Map of the City of Orange City as "Commercial or C-1."
6. "RESIDENCE DISTRICT" shall mean the territory not included in a business or school district, and described in Zoning Map of the City of Orange City as "Residential," "R-1," or "R-2."
7. "TRAFFIC CONTROL DEVICE" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(Code of Iowa Sec. 321.1 (46))

1.02 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the police department.

1.03 TRAFFIC ACCIDENTS. The following shall apply to traffic accidents:

1. REPORT. The driver of a vehicle involved in an accident within the limits of this city shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the city for the confidential use of the peace officers and shall be subject to the provisions of the Code of Iowa. (Code of Iowa, Sec. 321.273 & 321.273)
2. INVESTIGATION. The police shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.
3. STUDIES. Whenever the accidents at any particular location become numerous, the Police Chief shall conduct studies of such accidents and propose remedial measures.

1.04 FILES MAINTAINED. The Police Chief shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three year period. Such reports shall be filed alphabetically under the name of the driver concerned.

1.05 ANNUAL SAFETY REPORTS. The Police Chief shall prepare annually a traffic report which shall be filed with the Mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.

1.06 HABITUAL TRAFFIC VIOLATORS. The Police Chief shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefore, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law. (Code of Iowa, Sec. 321.201)

1.07 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the fire department when at the scene of a fire, or emergency or assisting law enforcement at the location of a traffic accident or when assisting peace officers, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

1.08 PEACE OFFICER'S AUTHORITY. Any peace officer is authorized to stop a vehicle to require exhibition of the driver's license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires, and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of the vehicle. (Code of Iowa, Sec. 321.492)

1.09 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

(Editor's Note: Sections 1.08 and 1.09 were added at time of 2008 Codification).

CHAPTER 1: TRAFFIC CODE

ARTICLE 2 - REGULATIONS AND VIOLATIONS

2.01 VIOLATION OF STATE REGULATIONS. Any person who shall willfully fail or refuse 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:

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
13. Section 321.180 – Instruction permits.
14. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
15. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
16. Section 321.193 – Restricted licenses.
17. Section 321.194 – Special minor’s licenses.
18. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor’ License.

19. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
20. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
21. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
22. Section 321.218 - Operating without valid driver's license or when disqualified.
23. Section 321.219 – Permitting unauthorized minor to drive.
21. Section 321.220 – Permitting unauthorized person to drive.
22. Section 321.221 – Employing unlicensed chauffeur.
23. Section 321.222 – Renting motor vehicle to another.
24. Section 321.223 – License inspected.
25. Section 321.224 – Record kept.
26. Section 321.232 – Radar jamming devices; penalty.
27. Section 321.234A – All-terrain vehicles.
28. Section 321.235A – Electric personal assistive mobility devices.
29. Section 321.247 – Golf cart operation on City streets.
30. Section 321.256 Obedience to official traffic-control devices.
31. Section 321.257 – Official traffic control signal.
32. Section 321.259 – Unauthorized signs, signals or markings.
33. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
34. Section 321.262 – Damage to vehicle.
35. Section 321.263 – Information and aid.
36. Section 321.264 – Striking unattended vehicle.
37. Section 321.265 – Striking fixtures upon a highway.
38. Section 321.275 – Operation of motorcycles and motorized bicycles.

- 39. Section 321.276 - Use of Electronic Communication Devices While Driving – Text Messaging.
- 40. Section 321.278 – Drag racing prohibited.
- 41. Section 321.284 – Open containers in motor vehicles – drivers.
- 42. Section 321.284A – Open containers in motor vehicles – passengers.
- 43. Section 321.288 – Control of vehicle; reduced speed.
- 44. Section 321.295 – Limitation on bridge or elevated structures.
- 45. Section 321.297 – Driving on right-hand side of roadways; exceptions.
- 46. Section 321.298 – Meeting and turning to right.
- 47. Section 321.299 – Overtaking a vehicle.
- 48. Section 321.302 – Overtaking and otherwise.
- 49. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
- 50. Section 321.304 – Prohibited passing.
- 51. Section 321.306 – Roadways laned for traffic.
- 52. Section 321.307 – Following too closely.
- 53. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 54. Section 321.309 – Towing; convoys; drawbars.
- 55. Section 321.310 – Towing four-wheel trailers.
- 56. Section 321.311 – Turning at intersections.
- 57. Section 321.312 – Turning on curve or crest of grade.
- 58. Section 321.313 – Starting parked vehicle.
- 59. Section 321.314 – When signal required.
- 60. Section 321.315 – Signal continuous.
- 61. Section 321.316 – Stopping.
- 62. Section 321.317 – Signals by hand and arm or signal device.
- 63. Section 321.318 – Method of giving hand and arm signals.

- 64. Section 321.319 – Entering intersections from different highways.
- 65. Section 321.320 – Left turns; yielding.
- 66. Section 321.321 – Entering through highways.
- 67. Section 321.322 – Vehicles entering stop or yield intersection.
- 68. Section 321.323 – Moving vehicle backward on highway.
- 69. Section 321.323A – Approaching certain stationary vehicles.
- 70. Section 321.324 – Operation on approach of emergency vehicles.
- 71. Section 321.324A – Funeral processions.
- 72. Section 321.325 – Pedestrians subject to signals.
- 73. Section 321.325 – Pedestrians subject to signals.
- 74. Section 321.327 – Yield to pedestrians in crosswalks.
- 75. Section 321.328 – Pedestrian failing to use crosswalk.
- 76. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
- 77. Section 321.330 – Use of crosswalks.
- 78. Section 321.331 – Pedestrians soliciting rides.
- 79. Section 321.332 – White canes restricted to blind persons.
- 80. Section 321.333 – Duty of drivers.
- 81. Section 321.340 – Driving through safety zone.
- 82. Section 321.341 – Obedience to signal of train.
- 83. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 84. Section 321.343 – Certain vehicles must stop.
- 85. Section 321.344 – Heavy equipment at crossing.
- 86. Section 321.344B – Immediate safety threat; penalty.
- 87. Section 321.354 – Stopping on traveled way.
- 88. Section 321.358 – Stopping, standing, or parking where prohibited.

89. Section 321.359 – Moving other vehicle.
90. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).
91. Section 321.362 – Unattended motor vehicle. (Parking without stopping engine and setting brake).
92. Section 321.363 – Obstruction to driver's view.
93. Section 321.364 – Preventing contamination of food by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.366 – Acts prohibited on fully controlled-access facilities.
96. Section 321.367 – Following fire apparatus.
97. Section 321.368 – Crossing fire hose.
98. Section 321.369 – Putting debris on highway.
99. Section 321.370 – Removing injurious material.
100. Section 321.371 – Clearing up wrecks.
101. Section 321.372 – School buses.
102. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
103. Section 321.381A – Operation of low-speed vehicles.
104. Section 321.382 – Upgrade pulls; minimum speed.
105. Section 321.383 – Exceptions; slow vehicles identified.
106. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
107. Section 321.385 – Head lamps on motor vehicles.
108. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
109. Section 321.387 – Rear lamps.
110. Section 321.388 – Illuminating plates. Improper registration plate lamp.
111. Section 321.389 – Reflector requirement. (Improper rear reflector)
112. Section 321.390 – Reflector requirements.

- 113. Section 321.392 – Clearance and identification lights.
- 114. Section 321.393 – Color and mounting.
- 115. Section 321.394 – Lamp or flag on projecting load.
- 116. Section 321.395 – Lamps on parked vehicles.
- 117. Section 321.398 – Lamps on other vehicles and equipment.
- 118. Section 321.402 – Spot lamps.
- 119. Section 321.403 – Auxiliary driving lamps.
- 120. Section 321.404 – Signal lamps and signal devices.
- 121. Section 321.404A – Light-restricting devices prohibited.
- 122. Section 321.405 – Self-illumination.
- 123. Section 321.406 – Cowl lamps.
- 124. Section 321.408 – Back-up lamps.
- 125. Section 321.409 – Mandatory lighting equipment. Failure to Dim.
- 126. Section 321.415 – Required usage of lighting devices.
- 127. Section 321.417 – Single-beam road-lighting equipment.
- 128. Section 321.418 – Alternate road-lighting equipment.
- 129. Section 321.419 – Number of driving lamps required or permitted.
- 130. Section 321.420 – Number of lamps lighted.
- 131. Section 321.421 – Special restrictions on lamps.
- 132. Section 321.422 – Red light in front.
- 133. Section 321.423 – Flashing lights.
- 134. Section 321.430 – Brake, hitch and control requirements.
- 135. Section 321.431 – Performance ability.
- 136. Section 321.432 – Horns and warning devices.
- 137. Section 321.433 – Sirens, whistles and bells prohibited.
- 138. Section 321.434 – Bicycle sirens or whistles.

- 139. Section 321.436 – Mufflers, prevention of noise.
- 140. Section 321.437 – Mirrors.
- 141. Section 321.438 – Windshields and windows.
- 142. Section 321.439 – Windshield wipers.
- 143. Section 321.440 – Restrictions as to tire equipment.
- 144. Section 321.441 – Metal tires prohibited.
- 145. Section 321.442 – Projections on wheels.
- 146. Section 321.444 – Safety glass.
- 147. Section 321.445 – Safety belts and safety harnesses; use required.
- 148. Section 321.446 – Child restraint devices.
- 149. Section 321.449 – Motor carrier safety regulations.
- 150. Section 321.450 – Hazardous materials transportation.
- 151. Section 321.454 – Width of vehicles.
- 152. Section 321.455 – Projecting loads on passenger vehicles.
- 153. Section 321.456 – Height of vehicles; permits.
- 154. Section 321.457 – Maximum length.
- 155. Section 321.458 – Loading beyond front.
- 156. Section 321.459 – Excessive weight – dual axels (each over 2000 lb. over).
- 157. Section 321.460 – Spilling loads on highways.
- 158. Section 321.461 – Trailers and towed vehicles.
- 159. Section 321.462 – Drawbars and safety chains.
- 160. Section 321.463 – Maximum gross weight.
- 161. Section 321.465 – Weighing vehicles and removal of excess.
- 150. Section 321.466 – Increased loading capacity; re-registration.
- 151. Section 321.467 – Retractable Axels.
- 152. Section 321.471 – Local Authorities May Restrict.

- 2.02 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of the 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 to any vehicle upon a roadway.
- 2.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.
- 2.04 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor punishable as provided in the Code of Iowa.
(Code of Iowa, Sec. 321.482)
- 2.05 MILLING. It shall be unlawful to drive or operate a motor vehicle, either singly or with others in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.
- 2.06 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.
- 2.07 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cutout, bypass or similar device.
(Code of Iowa, Sec. 321.436)
- 2.08 PLAY STREETS. The council may 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 any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.
(Code of Iowa, Sec. 321.255)
- 2.09 QUIET ZONES. Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

2.10 FUNERAL OR OTHER PROCESSIONS. The following shall apply to funeral and other processions:

(Code of Iowa, Sec. 321.236(3))

1. IDENTIFIED. A funeral or other 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 Chief.
2. MANNER OF DRIVING. Each driver in a funeral or other procession shall drive as near to the right hand of the roadway as practical and safe.
3. INTERRUPTING 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 such vehicles are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by traffic control signals or peace officers.

2.11 SCHOOL BUSES. The following shall apply to school buses:

1. SIGNALS. The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than one hundred (100) feet, nor more than three hundred (300) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.

(Code of Iowa, Sec. 321.372(1))

2. LIGHTS ON. The driver of a school bus shall, while carrying passengers, have its headlights turned on.

(Code of Iowa, Sec. 321.372(1))

3. DISCHARGING PUPILS. All pupils shall be received and discharged from the right front entrance of every school bus, and if the pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.

(Code of Iowa, Sec. 321.372(2))

4. PASSING PROHIBITED. The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.

(Code of Iowa, Sec. 321.372(3))

5. STOP WHEN MEETING. The driver of any vehicle when meeting a school bus on which the amber warning signal lights are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution.
(Code of Iowa, Sec. 321.372(3))
6. MULTI-LANE ROADS. The driver of a vehicle upon a highway or street providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction even though said school bus has stopped.
(Code of Iowa, Sec. 321.372(4))
- 2.12 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Title II Chapter 2 of this Code of Ordinances.
- 2.13 CARELESS DRIVING. No person shall drive any vehicle in such a manner as to indicate careless driving, which when used here does not impute willfulness or intent, but means simple negligence.
- 2.14 JAKEBRAKING. It shall be unlawful for any person in any part of the City of Orange City to make, or cause to be made, load or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any semi-tractor, commonly referred to as jakebraking. The City shall cause notices to be posted, or signs erected indicating prohibition.
- 2.15 UNATTENDED VEHICLE.
 1. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key; or to permit it to stand unattended upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.
 2. No “reefer”, or refrigeration unit of a semi or semi-trailer, or a vehicle with refrigeration shall be left unattended and running during daylight hours, nor shall any reefer or refrigeration unit on a vehicle be left running from the hours of sunset to sunrise.

CHAPTER 1: TRAFFIC CODE

ARTICLE 3 - SPEED REGULATIONS

- 3.01 GENERAL. Every driver of a motor vehicle on a street shall drive the same, at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other conditions then existing, and no person shall drive a vehicle on any street at a speed greater than will permit the driver to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using said street will observe the law.
(Code of Iowa, Sec. 321.285)
- 3.02 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.
(Code of Iowa, Sec. 321.294)
- 3.03 BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(1))
- 3.04 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(2))
- 3.05 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.236(5))
- 3.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Uniform Traffic Devices Manual, the council, upon the basis of an engineering and traffic investigation, finds that the general speed limits set out above are greater or less than is reasonable or safe under the conditions found to exist at the particular intersections or parts of the city street system and therefore declares the maximum speed limits to be as set out in section 3.07 at the places named.
(Code of Iowa, Sec. 321.290)

3.07 SPECIAL SPEED ZONES. A speed in excess of the limits set out miles per hour shall be unlawful on any of the following designated streets or parts thereof:

1. INCREASED SPEEDS:

- a. Industrial Way – Thirty-five (35) miles per hour.
- b. Frankfort Place SE – Thirty-five (35) miles per hour.

(Editor's Note: Ordinance 767 was approved by City Council on June 18, 2012, adding subsections 3.07(1) (a) & (b).

2. LOWER SPEEDS:

None

3.08 EMERGENCY VEHICLES. The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to emergency calls and if the drivers thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

(Code of Iowa, Sec. 321.231)

3.09 COMMERCIAL AND INDUSTRIAL DISTRICTS. A speed in excess of twenty-five (25) miles per hour in a commercial or industrial district unless specifically designated otherwise in this article, is unlawful.

(Editor's Note: Ordinance 767 was approved by City Council on June 18, 2012, adding a new Section 3.09 Commercial & Industrial Districts)

CHAPTER 1: TRAFFIC CODE

ARTICLE 4 - TURNING REGULATIONS

- 4.01 AUTHORITY TO MARK. The Police Chief 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 such markers, buttons or signs.
(Code of Iowa, Sec. 321.311 & 321.2 55)
- 4.02 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.
- 4.03 SIGNAL REQUIREMENTS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning when the speed limit is forty-five (45) miles per hour or less. The required signals may be given either by means of the hand and arm as provided in the Code of Iowa or by a mechanical or electrical directional signal device or light of a type approved by the department and conforming to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.315)
- 4.04 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection; provided however, that "U" turns are prohibited at intersections within the business district, at intersections where there are automatic traffic signals.
(Code of Iowa, Sec. 321.255 & 321.236(9))
- 4.05 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The Chief of Police is hereby 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 such turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

CHAPTER 1: TRAFFIC CODE

ARTICLE 5 - PARKING REGULATIONS

5.01 PARKING PROHIBITED. No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. CROSSWALK. On or within ten (10) feet of a crosswalk at an intersection.
(Code of Iowa, Sec. 321.236(1) & 321.358(5))
2. CENTER PARKING. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236(1))
3. MAILBOXES. Within twenty (20) 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.
(Code of Iowa, Sec. 321.236(1))
4. SIDEWALKS. On or across a sidewalk.
(Code of Iowa, Sec. 321.358(1))
5. DRIVEWAY. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358(2))
6. INTERSECTION. Within an intersection of any street.
(Code of Iowa, Sec. 321.358(3))
7. FIRE HYDRANT. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358(4))
8. STOP SIGN OR SIGNAL. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358(6))
9. FIRE STATION. 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 sign posted.
(Code of Iowa, Sec. 321.358(9))
10. EXCAVATIONS. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358(10))
11. DOUBLE PARKING. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358(11))

12. HAZARDOUS LOCATIONS. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Police Chief may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358(13))
13. THEATERS, HOTELS, AND HOSPITALS. A space of fifty (50) feet is reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
14. PUBLIC ALLEY. In any public alley within the limits of this city.
(Code of Iowa, Sec. 321.236(1))
15. PRIVATE ALLEY. In any private alley within the limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.
(Code of Iowa, Sec. 321.236(1))
16. STATE HIGHWAY INTERSECTING STREETS. On the minor street approach for a distance of thirty-five (35) feet in advance of the stop sign or on the exit side of the minor street for a distance of thirty-five (35) feet of any State Highway.
17. IN MORE THAN ONE SPACE. In any designated parking place so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such spaces.
18. RAMPS. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.
(Code of Iowa, Sec. 321.358(15))
19. ALLEYS. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.
(Code of Iowa, Sec. 321.236(1))

- 5.02 PARKING ADJACENT 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 (18) inches of the curb or edge of the roadway except as hereinafter 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)

- 5.03 PARK ADJACENT TO CURB: 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 (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

- 5.04 ANGLE PARKING. Upon those streets or portions of streets which 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 such signs and markings. No part of any vehicle, or the load thereon, when parked within an angle parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

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

Upon those streets or portions of streets which 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 such signs and markings.

- 5.06 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the municipal code, any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect or cause to be erected appropriate signs giving notice, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal and the emission of odor or fumes. When the signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.255 & 321.358(14))

5.07 PARKING TIME LIMITED. There will be no overnight parking on the following streets from August 15 to May 15 of each year:

1. South side of 7th Street SW, from Colorado Avenue to Delaware Avenue
2. North side of 6th Street SW, from Colorado Avenue to Delaware Avenue
3. South side of 6th Street S, from Colorado Avenue to Albany Avenue
4. East side of Colorado Avenue SW, from 5th Street to 7th Street
5. West side of Arizona Avenue SW, from 5th Street to 6th Street

(Editor's Note: Ordinance 769 was approved by City Council on September 17, 2012, amending section 5.07 Parking Time Limited).

5.08 SCHOOL LOADING ZONE. Reserved for future use.

5.09 TRUCK PARKING LIMITED. Trucks weighing five (5) tons or more, loaded or empty, shall not be parked on the streets of Orange City at any time.

5.10 VEHICLE UNATTENDED. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine or citation as provided in this chapter shall be attached to the vehicle in a conspicuous place.

5.11 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon the roadway for any of the following principal purposes:
(Code of Iowa, Sec. 321.236(1))

1. DISPLAY SALE VEHICLE. Displaying such vehicle for sale.
2. MAINTENANCE. For washing, greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
3. ADVERTISING. Displaying advertising.
4. SELLING FROM VEHICLE. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the city code.
5. STORAGE. Storage or as junk or dead storage for more than forty-eight (48) hours.
6. NONSELF-PROPELLED VEHICLES OR EQUIPMENT: No person shall park or store a trailer, camper, or other nonself-propelled vehicle or equipment on any street or municipal parking lot in the city.

The prohibition of this section shall not apply if the trailer, camper or other equipment is properly connected to a self-propelled vehicle and is promptly movable.

7. FIRE LIMITS: 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:

- a. In any public alley within the fire limits of this city.
- b. In any private alley within the fire limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.

For purpose of this section, the word "street" means the entire width between the property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right for purposes of vehicular traffic. The term "municipal parking lot" shall mean the entire portion of all parcels of property owned by the city and improved and designated for vehicular parking.

5.12 METERED PARKING ZONES. Reserved for Future Use.

5.13 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, the Chief of Police may cause curbs to be painted with a yellow or orange color and erect "no parking or standing" signs, It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign posted.

5.14 SEASONAL NIGHT TIME PARKING ON STREET PROHIBITED. No owner or operator of any motor vehicle shall park or permit to be parked a motor vehicle on any street from October 15th to April 1st of the following year between the hours of 2:00 o'clock a.m. and 6:00 o'clock a.m. of each day, except that this provision shall not apply to motor vehicles parked immediately adjacent upon the place of employment of the operator thereof and he/she is then engaged in his/her employment and except attended disabled vehicles and emergency vehicles.

(Editor's Note: Ordinance 733 was approved by City Council on January 4, 2005 and amended Section 5.14)

5.15 PARKING OF VEHICLES WHICH EMIT ODORS OR FUMES OR CONTAIN DANGEROUS SUBSTANCES. No owner or operator of any motor vehicle shall park or permit to be parked a motor vehicle which emits offensive, noisome, or dangerous odors or fumes, and vehicles loaded with volatile, poisonous, or otherwise dangerous substances, at any point within the City of Orange City so as to adversely affect, disturb, or endanger the inhabitants of the City, except that this provision shall not apply to motor vehicles parked near service areas for the purpose of loading and unloading, refueling, meals, or

5.16 AUTHORITY TO IMPOUND VEHICLES. Members of the Police Department are hereby 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 circumstances provided below:

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 is so parked as to constitute a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left upon a street for a continuous period of forty-eight (48) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given an opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of seasonal night time parking provisions.
5. When any vehicle is parked in violation of a ban on parking during snow emergency as proclaimed by the Mayor.
6. When necessary to protect the public from odors or fumes as set out in Section 5.15 of this Title.

5.17 PENALTIES FOR VIOLATIONS IN ADDITION TO IMPOUNDMENT.

1. The owner or operator of any vehicle who shall receive notice either personally or by the attaching of such notice to said vehicle, that said vehicle is parked in violation of said seasonal night time parking rules may, within thirty (30) days from the time when such notice is served upon him/her or attached to such vehicle, submit in payment to the City as the penalty for such violation the sum of ten dollars (\$10.00). If such payment is not made within thirty (30) days from the time violation is indicated on the notice, such owner or operator must pay to the City as a penalty for such violation the amount of fifteen (\$15.00). Such payments shall be deposited at the City Hall in Orange City, Iowa, or mailed to the city offices by regular United States mail. In the event the penalty is mailed, said penalty shall be deemed paid as of the time of the postmark on the envelope.
2. Any person receiving such notice of violation and deeming himself not guilty of such offense or desiring to appear and defend against the same shall within such twenty four (24) hour period appear at the Sioux County Magistrate Court and post bond for his or her appearance as may be required by said court pending trial.

(Editor's Note: Ordinance 733 was approved by City Council on January 4, 2005 and amended Section 5.17(1))

- 5.18 HANDICAPPED PARKING SPACES. The city council shall create handicapped parking spaces in the number and in the dimension as required by federal and Iowa statutes or regulations.
- 5.19 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:
1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.
 2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:
(Code of Iowa, Sec. 321L.4[2])
 - a. Use by motor vehicle not displaying a handicapped parking permit:
 - b. Use by a motor vehicle displaying a handicapped permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonpoperator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly persons being so transported in a vehicle displaying a removable placard in accordance with section 321L.2(1b) of the Iowa Code;
 - c. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
 - d. Scheduled Violation. A violation of this subsection 2 is a scheduled violation and subject to a fine of Two Hundred Dollars (\$200.00).
(Code of Iowa, Sec. 805.8A(1c))
 3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
 - a. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the Code of Iowa when utilizing a wheelchair parking cone.
 - b. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.
 - c. For a parking violation under section 321L.2A of the Code of Iowa, subsection 2, the scheduled fine is twenty dollars (\$20.00).
(Code of Iowa, Sec. 805.8A(1b))

CHAPTER 1: TRAFFIC CODE

ARTICLE 6 - STOP AND YIELD

- 6.01 VEHICLES ENTERING STOP INTERSECTION. 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.

(Code of Iowa, 321.322(1))

- 6.02 THROUGH STREET STOPS. Every driver of a vehicle shall stop, unless a yield is permitted by this article, before entering an intersection with the following designated through streets:

(Code of Iowa, Sec. 321.345)

See map located in the Orange City Hall.

- 6.03 STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following intersections from the directions indicated:

See map located in the Orange City Hall.

- 6.04 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 he/she is operating.

- 6.05 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area, and thereafter the driver shall proceed into the sidewalk area only when the driver can do so without danger to pedestrian traffic and the driver shall yield the right of way to any vehicular traffic on the street into which the driver's vehicle is entering.

(Code of Iowa, Sec. 321.353)

- 6.06 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his or her vehicle to a full stop at a point ten (10) 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 through such school crossing zone.

(Code of Iowa, Sec. 321.249)

- 6.07 VEHICLES ENTERING YIELD INTERSECTION. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, 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. After slowing or stopping, 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.

(Code of Iowa, Sec. 321.322(2))

- 6.08 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the foregoing section, at the following intersections if approaching from the directions indicated:

See map located in the Orange City Hall.

- 6.09 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

CHAPTER 1: TRAFFIC CODE

ARTICLE 7 - ONE WAY STREETS

- 7.01 ONE WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction when appropriate signs are in place.
(Code of Iowa, 1981, Sec. 321.236(4))

NONE

- 7.02 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT. The Police Chief is authorized to determine and recommend to the council certain streets, or specified lanes 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.

1. ERECT SIGNS. The Police Chief may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
2. VIOLATION. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.
3. STREETS LISTED. The following streets may have variable lanes or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

NONE

CHAPTER 1: TRAFFIC CODE

ARTICLE 8 - TRAFFIC CONTROL DEVICES

- 8.01 INSTALLATION. The Police Chief shall cause to be placed and maintained traffic control devices when and as required under the Traffic Code of this city to make effective its provisions; 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 code of this city or under state law, or to guide or warn traffic. The Chief shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254, 321.236(2) & 321.255)

- 8.02 CROSSWALKS. The Police Chief is hereby authorized, subject to approval of the council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where due to traffic conditions there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

(Code of Iowa, Sec. 372.13(4), 321.236(2) & 321.255)

- 8.03 TRAFFIC LANES. The Police Chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require consistent with the traffic code of this city. Where such 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 any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

- 8.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

(Code of Iowa, Sec. 321.256)

- 8.06 MOVING OR DAMAGING DEVICE. It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City."

- 8.07 TRAFFIC CONTROL DEVICES. The Council shall establish by the resolution and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersection, yield right-of-way intersection, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power by resolution to designate and indicate intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.

CHAPTER 1: TRAFFIC CODE

ARTICLE 9 - LOAD AND WEIGHT REQUIREMENTS

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

(Code of Iowa, Sec. 321.471 & 321.472)

- 9.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The Police Chief may, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by state law or city ordinance over those streets named in the permit which are under the jurisdiction of the city and for which the city is responsible for maintenance.

(Code of Iowa, Sec. 321.473 & 321E.1)

- 9.03 LOAD LIMITS ON BRIDGES. Where it has been determined by the council, upon engineering advice, that any city bridge has a capacity less than the maximum permitted on the streets of the city, or on the street serving the bridge, the Police Chief may cause to be posted and maintained, signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.473)

- 9.04 TRUCK ROUTES. The following shall apply to the movement of trucks upon city streets:

1. THROUGH TRUCKS. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the city or making no scheduled or definite stops within the city for the purpose of loading or unloading shall travel over or upon the following streets within the city and none other:

NONE

2. TRUCKS WITH SCHEDULED STOPS. Any motor vehicle weighing five (5) tons or more, when loaded or empty, 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 said designated route.

3. OWNER'S RESPONSIBILITY. 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.

(Code of Iowa, Sec. 321.472)

CHAPTER 1: TRAFFIC CODE

ARTICLE 10 - PEDESTRIANS

- 10.01 USE SIDEWALKS. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent street.
- 10.02 WALKING IN STREET. Where sidewalks are not provided, pedestrians shall at all times when walking on or along a street, walk on the left side of the street, or facing traffic on one-way streets.
(Code of Iowa, Sec. 321.326)
- 10.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
(Code of Iowa, Sec. 321.328)
- 10.04 HITCH HIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.
(Code of Iowa, Sec. 321.331)

CHAPTER 1: TRAFFIC CODE

ARTICLE 12 - ENFORCEMENT

12.01 ARREST OR CITATION. Whenever a police officer has reasonable cause to believe that a person has violated any provision of this chapter such officer may:

1. IMMEDIATE ARREST. Immediately arrest such person and take the person before a local magistrate.
2. ISSUE CITATION. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the city law enforcement agency.

(Code of Iowa, Sec. 805.6 & 321.485)

12.02 PARKING VIOLATIONS.

1. Admitted violations of any parking restrictions imposed by this chapter, except violations pertaining to the improper use of a handicapped parking space as enumerated in Section 5.18 of this Chapter, may be charged upon a simple notice of a fine in an amount payable at the office of the City Clerk. The fine for a parking violation shall be ten dollars (\$10.00). If payment for a parking violation is not received by the City Clerk within 48 hours of citation, the fine shall be twenty dollars (\$20.00).

12.03 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that the particular vehicle described in the information was parked in violation of this chapter, and the defendant named in the information was the registered owner at the time in question.

12.04 IMPOUNDING VEHICLES. A police officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the city, under the circumstances hereinafter enumerated:

1. DISABLED VEHICLE. 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.

(Code of Iowa, Sec. 321.236(1))

2. ILLEGALLY PARKED VEHICLE. When any vehicle is left unattended upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

(Code of Iowa, Sec. 321.236(1))

3. PARKED OVER FORTY-EIGHT HOUR PERIOD. When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found the owner shall be given an opportunity to remove the vehicle.
(Code of Iowa, Sec. 321.236(1))

4. COSTS. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.
(Code of Iowa, Sec. 321.236(1))

12.05 SCHEDULED VIOLATIONS. For violations of the Traffic Code which are designated by Section 805.8 of Code of Iowa to be scheduled violations, the schedule fine for each of those violations shall be specified in Section 805.8 of the Code of Iowa.

CHAPTER 3: STREETS AND ALLEYS

ARTICLE 13 - STREET AND ALLEY REGULATIONS

- 13.01 OBSTRUCTING OR DEFACING STREETS. It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.
(Code of Iowa, Sec. 716.6)
- 13.02 INJURING NEW PAVEMENT. It shall be unlawful for any person to willfully 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, Sec. 364.12(2))
- 13.03 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street 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)
- 13.04 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person to willfully remove, throw 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 for the purpose of guarding or enclosing unsafe or dangerous places in a highway, street, alley, avenue or bridge without the consent of the person in control.
(Code of Iowa, Sec. 716.6)
- 13.05 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:
1. Permit Required. No excavation shall be commenced without first obtaining a permit therefore. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.

Applicant agrees to hold City harmless in regard to any and all claims of injury or damage arising from the acts or omissions of the applicant or applicant's agent and further agrees to comply with 29CFR Part 1926.650, 651, 652 as adopted by the Iowa Division of Labor.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City. All excavation shall be mechanically compacted in lifts not to exceed 12 inches. All excavation that requires pavement removal shall, before replacing, include sawing all paving edges and the paving will be replaced with six inches of 3500 psi concrete. In the event that the excavation is under a street, driveway, sidewalk or any other paving, the paving shall be replaced within 72 hours after the completion of the excavation. The City has the right to finish any improper or unfinished work to protect the public from harm. The permit holder/property owner will bear any expenses incurred. The City will be held harmless by the permit holder/property owner in regard to any and all claims of injury or damage arising from acts or omissions of the authority of the permit. It is the permit holder/property owner's responsibility to protect the public. All barricades and safety fence are the permit holder/property owner's responsibility.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefore to the permit holder/property owner.
 9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
 10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.
 11. Permit Fee. A permit fee set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
 12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
 13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in an amount set by resolution of the Council to guarantee such compliance.
- 13.06 DUMPING OF SNOW. It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition, except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or the property owner's agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.
- (Code of Iowa, Sec. 364.12(2))
- 13.07 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any city official, police officer or member of the fire department.
- 13.08 PLAYING IN STREETS. It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by authority of the Police Chief for such purposes.
- (Code of Iowa, Sec. 364.12(2))

- 13.09 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when much work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street.
- 13.10 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any new or used car or cars, machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale or offering same for sale, without permission of the council.
- 13.11 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property line and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood in the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs, and picking up litter.
- 13.12 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.
- 13.13 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

CHAPTER 3: STREETS AND ALLEYS

ARTICLE 14 - BUILDING NUMBERING

14.01 DEFINITIONS. For use in this article the following shall be defined:

1. "PRINCIPAL BUILDING" shall mean the main building on any lot or subdivision.
2. "OWNER" shall mean the owner of the principal building.

14.02 OWNER REQUIREMENTS. Every owner shall comply with the following building number requirements:

1. **OBTAIN BUILDING NUMBER.** The owner shall obtain the assigned number to his or her principal building from the Clerk.
(Code of Iowa, Sec. 364.12(3d))
2. **DISPLAY BUILDING NUMBER.** The owner shall place or cause to be installed and maintain on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12(3d))
3. **FAILURE TO COMPLY.** If an owner refuses to number a building as provided, or fails to do so for a period of thirty (30) days after being notified in writing by the city to do so, the city may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12(3h))

14.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map, in accordance with the following provisions, and filing it in the Clerk's office.

1. **BASE LINES.** Central Avenue constitutes the base line for the numbering system as applied to streets running east and west. 1st Street constitutes the base line for the numbering system as applied to streets running north and south.
2. **DIAGONAL AND CURVED STREETS.** Diagonal and curved streets are classified as east and west or north and south streets depending in which classification their general alignment most nearly conforms.
3. **EVEN NUMBERS.** Even numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the south side of streets running east and west.
4. **ODD NUMBERS.** Odd numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the north side of streets running east and west.

5. ASSIGNMENT OF NUMBERS TO PROPERTIES. Each principal building shall be assigned a number in accordance with the provisions of this section. In case there are vacant lots or double lots, numbers shall be reserved to provide for an orderly numbering system when the lots are occupied or divided.
- 14.04 ISSUE NUMBERS. The Clerk shall issue the assigned number in accordance with the numbering map to owners upon their request.
- 14.05 ENFORCEMENT. The Clerk shall be responsible for enforcing the provisions of this article.

CHAPTER 4: SNOWMOBILES & ATV'S

ARTICLE 15 - GENERAL PROVISIONS

15.01 PURPOSE. The purpose of this chapter is to regulate the operation of all- terrain vehicles and snowmobiles within the City.

15.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) and not more than six (6) low-pressure tires that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to less than one thousand five hundred (1,500) pounds and that has a bench seat or seat or saddle designed to be straddled by the operator and handlebars or a steering wheel for steering control.
2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow and ice. (Code of Iowa, Sec. 321G.1 (18))
3. "OPERATE" shall mean to ride in or on other than as a passenger, use, or control the operation of an all-terrain vehicle or snowmobile in any manner, whether or not the all-terrain vehicle is moving.
(Code of Iowa, Sec. 321I.1(17))
4. "OPERATOR" shall mean a person who operates or is in actual physical control of an all-terrain vehicle or snowmobile.
(Code of Iowa, Sec. 321I.1(18))
5. "ROADWAY" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
6. "STREET" OR "HIGHWAY" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular travel, except in public areas in which the boundary shall be thirty-three feet each side of the center line of the roadway. Includes roadway, alley, or trail used for vehicular traffic including a state or county highway.

15.03 GENERAL REGULATIONS. No person shall operate an ATV or snowmobile within the City limits of Orange City, Iowa in violation of the provisions of Chapter 321G and 321I 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.

15.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles may not be operated upon streets.
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
 - a. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
 - b. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided:
 - i. The crossing is made at an angle of approximately ninety degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
 - ii. The snowmobile is brought to a complete stop before crossing the street;
 - iii. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
 - iv. In crossing a divided street, the crossing is made only at an intersection of such street with another street.
3. Trails. Snowmobiles shall not be operated on bike trails, walking trails, or All-Terrain Vehicle trails except where so designated.
4. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without snow cover.
5. Sidewalks or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

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

1. Permits. Operators of ATVs may apply at the Orange City City Office for a permit to allow the operation of an ATV on City Streets. Each ATV to be driven must have a permit, and be inspected by the Orange City Police Department. The fee for the permit and inspection shall be \$25 for two years. The permit will be issued by the City Administrator, and inspection completed by Orange City Police Department. A copy of the permit shall be carried by any operator while operating the ATV. A permit decal shall be displayed next to the registration decal in the manner prescribed by rules of the Natural Resource Commission. This permit will allow the ATV to be driven in Orange City and Alton.
2. Streets. Permitted ATVs may be operated upon streets under the jurisdiction and within the corporate city limits of Orange City. ATVs shall not be operated upon any City street which is a primary road extension or state highway through the City, to wit:

US Highway 10

However, ATVs may cross such primary road extension or highway at the following intersections: Lincoln, Frankfort, Albany, and Iowa Avenues.

3. Trails. ATVs shall not be operated on bike trails, walking trails or snowmobile trails except where so designated.
4. Private Property. ATVs may only be operated on private property with the express consent of the owner.
5. Sidewalk or Parking. No ATV shall be operated upon sidewalks unless engaged in snow removal or maintenance activities, nor shall they be operated upon that portion of the street from the curb to the sidewalk or property line, commonly referred to as the "parking", or any off-street right-of-way, except for the purpose of snow removal, maintenance or landscaping activities.
6. Parks or Other City Land. A permit may be issued for the operation of an ATV in City parks or other city land for special events authorized by the city council.
7. License. No person shall operate an ATV on the public street of the City without a valid motor vehicle operator's license, and must be 18 years of age.
8. Equipment. All ATVs shall be equipped according to the following provisions:
 - a. Mufflers required. An all-terrain vehicle shall not be operated without suitable and effective muffling devices. An all-terrain vehicle shall comply with the sound level standards and testing procedures established by the society of automotive engineers under SAE J1287. (Code of Iowa, Sec 321I.12). No person shall operate an all-terrain vehicle within the City limits, which is equipped with a muffler cut-out, bypass or similar device.

- b. Headlamp - tail lamp - brakes. Every all-terrain vehicle operated during the hours of darkness shall display a lighted headlamp and tail lamp. Every all-terrain vehicle shall be equipped with brakes.
(Code of Iowa, Sec 321I.13).
- 9. Traffic Code Observed. Any operator of any ATV must observe all state and local traffic control regulations and devices and shall not operate an ATV at a speed in excess of that posted, nor at any time operate an ATV at a speed greater than is reasonable and proper under the existing conditions.
- 10. Unattended ATVs and Parking. No owner or operator of an ATV shall leave the ATV unattended on public property while the motor is running or with keys in the ignition switch. Owners and operators of ATVs must obey all parking regulations in the City.
- 11. Registration. The owner or operator of an ATV must maintain current vehicle registration as required by Iowa law.
- 12. Penalties. A violation of this chapter shall be a simple misdemeanor or a municipal infraction according to Title 6, Chapter 2, Article 6 of the Orange City City Code. Three violations of this Ordinance within a period of twelve (12) months shall result in the revocation of the permit for a period of two (2) years. The offender may also be prosecuted pursuant to Sect. 321I.36 of the Iowa Code.
- 15.06 FINANCIAL RESPONSIBILITY / NEGLIGENCE. The owner or operator of an ATV or snowmobile must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B. The owner and operator of an ATV or snowmobile are liable for any injury or damage caused by the negligent operation of the ATV or snowmobile.
- 15.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile 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 within forty-eight (48) hours, in accordance with the State law.

(Editor's Note: Ordinance 754 was approved by City Council on May 17, 2010 and replaced Article 15 – General Provisions in its entirety).

CHAPTER 5: BICYCLES

ARTICLE 16 - BICYCLES

- 16.01 EFFECT OF REGULATIONS. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.
(Code of Iowa, Sec. 321.236(10))
- 16.02 TRAFFIC CODE APPLICABLE. 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 the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.
(Code of Iowa, Sec. 321.234)
- 16.03 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(Code of Iowa, Sec. 321.234)
- 16.04 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. The following shall also apply:
1. NOT MORE THAN TWO ABREAST. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
 2. USE PATH WHEN AVAILABLE. 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.
- 16.05 RIDING ON SIDEWALKS. No person shall ride a bicycle upon a sidewalk within a business district. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey such signs. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.
(Code of Iowa, Sec. 321.236(10))
- 16.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.
(Code of Iowa, Sec. 321.236(10))

- 16.07 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 said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.
(Code of Iowa, Sec. 321.236(10))
- 16.08 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building, in such a manner as to afford the least obstruction to pedestrian traffic.
(Code of Iowa, Sec. 321.236(10))
- 16.09 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.
(Code of Iowa, Sec. 321.236(10))
- 16.10 EQUIPMENT ON BICYCLES. No person shall operate a bicycle unless it is equipped with the following equipment:
1. LAMP. A bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from all directions from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
(Code of Iowa, Sec. 321.236(10))
 2. BRAKE. A brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Code of Iowa, Sec. 321.236(10))
- 16.11 LICENSE. Reserved for Future Use.
- 16.12 RENTAL AGENCIES. A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and an indicia is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required in this article.
- 16.13 FOLLOWING FIRE TRUCK. No person riding a bicycle shall follow a fire truck or other fire equipment, or any other emergency equipment, including an ambulance, first responders, or law enforcement at any time.

CHAPTER 6: SKATEBOARD RESTRICTIONS

ARTICLE 17 - SKATEBOARDS

17.01 PURPOSE. The City Council of the City of Orange City, Iowa, hereby determines that restrictions for the operation and use of roller-skates and skateboards within the central downtown business district of the City of Orange City is necessary and proper for promoting public safety and protection of property, all for the common good.

17.02 DEFINITIONS:

1. "DOWNTOWN CENTRAL BUSINESS DISTRICT" means the area of the City bounded by the following streets:
 - a. East: Alley between Albany and Boston
 - b. South: South Third Street
 - c. West: Arizona Avenue
 - d. North: North Fourth Street
2. "ROLLER SKATES" means a shoe with wheels attached or a device with wheels which is designed to be attached to a shoe and commonly known as "ROLLER SKATES" or "IN-LINE SKATES".
3. "SKATEBOARD" means a wheeled device designed to transport a rider in a standing position, which device is not otherwise secured to a rider's feet or shoes.

17.03 PROHIBITION. No person shall ride a skateboard, roller-skates, or in-line skates on any public sidewalk in front of business or professional establishments anywhere within the City. Nothing in this section shall be meant to prohibit the use of skateboards, roller-skates, or in-line skates in a safe manner upon other public ways including bike paths or specially marked usage zones, but any person using such devices shall yield the right-of-way to all pedestrians and shall give audible signal before overtaking and passing such pedestrian.

17.04 PENALTIES.

1. Violation by Adult - Warning or Simple Misdemeanor. Violation of this Ordinance by an adult shall, for the first offense, result in a warning; and upon a second violation, the adult shall be charged with a simple misdemeanor. Upon conviction, the adult shall be punished by a fine not to exceed two hundred dollars (\$200.00).
1. Violation by Minor - Warning or Simple Misdemeanor. Violation of this Ordinance by a minor shall, for the first offense, result in a warning; and, upon a second violation, the minor shall be charged with a simple misdemeanor. Upon conviction, the minor shall be punished by a fine not to exceed two hundred dollars (\$200.00). As an alternative, the Court may order the minor to perform community service if the minor presents an acceptable plan of community service prearranged with a willing public or nonprofit private agency or otherwise as the Court may deem best.

TITLE 10 - UTILITIES

CHAPTER 1: ELECTRIC

ARTICLE 1 - PUBLIC ELECTRIC SYSTEM

- 1.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipal electric utility. The provisions of this Chapter, including service rules and regulations adopted in accordance with these provisions, shall apply to customers both inside and outside the city, whether or not such customer has a contract for electric service with the City.
- 1.02 DEFINITIONS. For the purposed of this chapter:
1. “Consumer” of “Customer: means, in addition to any person or legal entity receiving electric service from the municipal electric utility, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
 2. “Electric Utility” means all facilities of the municipal electric utility for producing, transmitting, and distributing electricity.
- 1.03 SERVICE RULES OF THE MUNCIPAL ELECTRIC UTILITY. The Council shall adopt, by resolution, appropriate operating rules governing the municipal electric utility, which shall be entitled “Service Rules of the Municipal Electric Utility”.

(Editor’s Note: Sections 1.01, 1.02 & 1.03 were added at time of updating the Code Book in 2014).

- 1.04 DISCONNECTION PROCEDURES. Failure to pay rate charges and billings according to the rules and regulations of the Iowa Utilities Board may subject an electrical customer to a disconnection of service. The penalty for re-connection after disconnection by reason of delinquent shall be twenty-five dollars (\$25.00) and shall be paid prior to any such reconnection of service required after delinquency disconnection.

A temporary disconnection (two days or less) and subsequent reconnection of electrical service will be done at the request of the customer at no charge. Disconnections for more than two days will be charged \$25.00 for reconnection.

CHAPTER 1: ELECTRIC

ARTICLE 2 - ELECTRIC RATES SCHEDULE

2.01 PURPOSE. The purpose of this Article is to establish rates to be paid by users of the Municipal Electric System.

2.02 RESIDENTIAL: (Residential Rates Effective 9-15-2014.)
Rate 1001 & 1005

Customer Charge \$10.00

June – August
All KWH @ .105 per KWH

September – May
First 1,200 KWH @ .086 per KWH
Over 1,200 KWH @ .067 per KWH

Purchased Power Adjustment – See Purchased Power Adjustment Clause.
Minimum per month - \$10.00
Applicable to any residential customer

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.02 Residential)

2.03 COMMERCIAL: (Commercial Rates Effective 9-15-2014)
Rate 1011 & 1111

June – August
All KWH @ .106 per KWH

September – May
All KWH @ .088 per KWH

Minimum per month - \$16.00
Applicable: To all commercial customers for lighting and small power and heating purposes. Monthly peak demand must be under 30 KW for a majority of the months in a year.

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.03 Commercial)

2.04 INDUSTRIAL: (Industrial Rates Effective 1018-2009)
Rate 1021 & 2021

Customer Charge \$30.00
All KWH @ .040 per KWH

Demand Charge:
June – August @ 18.90 per KWH
September – May @ 13.50 per KWH

Minimum Bill \$200.00

Purchased Power Adjustment – See Purchased Power Adjustment Clause.

Minimum per month - \$200.00

Power Factor Adjustment – See Power Factor Adjustment Clause

Applicable: To non-residential customers for power, heating and lighting use. Monthly peak demand must be over 30 KW for a majority of the months in a year.

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.04 Industrial)

2.05 Reserved for Future Use.

2.06 STREET LIGHTING:

No rate at this time.

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.06 Street Lighting)

2.07 SECURITY LIGHTING:
Rate 7001, 7011, 7021, 7201, 7211 & 7221

150 Watt \$ 7.00
175 Watt \$ 7.00
400 Watt \$14.50

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.07 Security Lighting)

2.08 PURCHASED POWER ADJUSTMENT CLAUSE. All electric rate schedules are subject to a Purchased Power Adjustment Clause (PAC) factor applied uniformly to all KWHs. The PAC factor will increase or decrease based on the cost of purchasing electricity during the previous month. The utility reserves the right to adjust for the difference between the previous month and the current month's average cost of purchased power on subsequent bills.

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Section 2.08 Purchased Power Adjustment Clause)

- 2.09 POWER FACTOR ADJUSTMENT CLAUSE. If it is determined by recorded measurement that a customer's power factor is less than 95 percent during the period of the customers maximum demand, the demand shall be increased by the ratio of 95 percent to the actual power factor.

(Editor's Note: Ordinance 784 approved by City Council on September 15, 2014 amended Sections 2.09 Power Factor Adjustment Clause)

2.10 AGGREGATION OF RETAIL CUSTOMER DEMAND RESPONSE

- A. The Orange City Municipal Electric Utility or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Orange City Municipal Electric Utility directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.
- B. Retail customers served by the Orange City Municipal Electric Utility wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Orange City Municipal Utility or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Orange City Municipal Electric Utility.

2.11 ANCILLARY SERVICES PROVIDED BY DEMAND RESPONSE RESOURCES

- A. The Orange City Municipal Electric Utility or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Orange City Municipal Electric Utility directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).
- B. Retail customers served by the Orange City Municipal Electric Utility wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Orange City Municipal Electric Utility or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the Orange City Municipal Electric Utility.

(Editor's Note: Ordinance 750 approved by City Council on July 20, 2009 added Section 2.11 Aggregation of Retail Demand Response and Section 2.1 Ancillary Services Provided by Demand Respond Resources)

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 3 - PUBLIC SEWER SYSTEMS

3.01 PURPOSE. The purpose of this article is to provide for the regulation of public and private sewer systems.

3.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Sewer System" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey non-point runoff from precipitation are not considered as sewer systems for the purposes of this chapter.

(Code of Iowa, Sec. 455B.171(32))

2. "Sewage" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present.

(Code of Iowa, Sec. 455B. 171(29))

3. "Public Sewer" means a common sewer which is directly controlled by a public authority.

4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.

5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface, and ground water.

6. "Sanitary Sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.

7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.

8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.

(Code of Iowa, Sec. 455B.171(9))

9. "Properly Shredded Garbage" means garbage that has been shredded to such 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 to any dimension.
10. "Building Drain" means 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.
11. "Building Sewer" is that part of the horizontal piping from the building wall to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.
12. "Natural Outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
13. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
14. "Contributor" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
15. "Sewer Rental" means any and all rates, charges, fees, or rentals levied against and payable by contributors as consideration for the servicing of said contributors by said sewer system.
16. "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent, or if 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 or flows during normal operation.
17. "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the drainage system.
18. "Superintendent" means the person assigned to supervise the sanitary sewage collection system and treatment works.
19. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. It is used to indicate the concentration of free acid and alkali.
20. "Suspended Solids": Means 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

- 3.03 ADOPTION OF STATE PLUMBING CODE. The installation of any private sewer and its connection with a public sewer shall comply with all applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as provided by the Iowa Administrative Code, Title 661, Chapter 16, division IV, published by the State of Iowa, which are hereby adopted.
- 3.04 DAMAGING SEWER SYSTEM. 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 sewer system.
(Code of Iowa, Chapter 716)
- 3.05 MANHOLES. No person shall open or enter any manhole of the sewer system, except by authority of the Mayor (or Superintendent).
(Code of Iowa, Chapter 716)
- 3.06 TREATMENT REQUIRED. The owners of any houses, buildings, or properties 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, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet (61 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.
(Code of Iowa, Sec. 364.12 (3f)) & (IAC, 567-69.1(3))
- 3.07 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, the person must obtain a written permit from the City. The following shall apply to all permits:
1. APPLICATION. The application shall be filed on forms furnished by the city and contain the following information:
 - a. Legal description of the property.
 - b. Name of property owner.
 - c. Amount and date of any prior assessment for construction of the public sewers.
 - d. Description of materials to be used and manner of construction.
 - e. The line of the building sewer and place of connection.
 - f. Intended use of the sewer.
 - g. Name and address of the person doing the work.
 - h. Plans, Specifications and other pertinent information.

At the discretion or judgment of the Superintendent, he/she may require the permit application to be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.
3. REVOCATION. The Mayor (or Superintendent) at any time may revoke the permit for any violation of this chapter and require that the work be stopped. The owner or plumber may appeal such action to the council.

3.08 CONNECTIONS. The owners of all residences and business establishments intended or used for human habitation, occupancy, or uses which abut public sewers must connect their sewage facilities to the public sewers. The following shall pertain to all connections.
(Code of Iowa, Sec. 364.12(3f))

1. CITY APPROVAL REQUIRED. Any installation of a private sewer and its connection to a public sewer shall be made by a plumber approved by this city. The council shall have the power to suspend the license of any plumber for violation of any of the provisions of this Chapter. A suspension, unless revoked, shall continue until the next regular meeting of the council. The City shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the council meeting at which a hearing will be granted.
2. CONNECTION FEE. Regular Connection Fee: The fee for the initial regular connection of sewer line shall be three hundred and fifty dollars (\$350.00).
3. SPECIAL CONNECTION CHARGE. If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of the public sewers, or has been assessed only as an unimproved lot, the owner shall pay a special connection charge to the city for the use of the public sewers before the permit is issued. The fee amount shall be determined by the council by ordinance.

The following are projects to which special connection charges are not applicable:

1. 5th Street S.E. between Albany Ave. S.E. and Frankfort Ave. S.E.: The only property remaining that has not paid special connection charges or assessment for this project is that property lying south of said 5th. Street S.E. between Albany Ave S.E. and Frankfort Ave S.E. The charge per front foot was established at \$2.00 per front foot or the total area measured from Albany Ave S.E. to Frankfort Ave. S.E. A distance of 1288 feet.
2. Industrial Air-Park. This special connection charge has been established and implemented with the use of contractual arrangements with the various owners and/or the Industrial Development Corp. These contractors are on file in the City Office.

3. Sanitary Sewer Project Phase - 1981-1982. This would be applicable to that portion of the described project not financed by special assessment bonds. The following charges would prevail:
 - A. Special Connection Charge of \$300 per connection for all Residential users.
 - B. Special Connection Charge of \$500.00 per connection for all Commercial users.
 - C. Special Connection Charge of \$500.00 per acre for all Industrial users.
(Code of Iowa, Sec. 384.84(2))
 4. SEPARATE CONNECTIONS. In no case shall a joint sewer be allowed where the property abuts on a street, alley or easement in which there is a public sewer. Other buildings in adjacent areas which are required to be connected shall be separately and independently connected to the public sewers unless the council specifically permits joint connections by resolution. In addition to the regulations herein stated, all property located within any new subdivision within the boundaries of the City of Orange City shall be subject to the subdivision ordinances of the City of Orange City, which are on file in the City Office.
 5. SEWAGE LIFTS. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
 6. SEWER TAPS, AT "Y" BRANCH. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, the property owner shall, at his or her own expense, install a "Y" saddle, carefully mortared set into the public sewer at the location specified by the public works director.
 7. WATERCOURSE CROSSINGS. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed and where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end and be adequately supported if more than one pipe length is used.
- 3.09 QUALITY OF PIPE AND FOUNDATION. Building sewer pipes shall be of the best quality, free from flaws, splits or breaks. They shall be laid on a smooth bottom with bell holes cut in the bottom of the trench so that the joining of the bell and the spigot shall be water tight, gas tight and root proof. All sewer pipes must be laid in such a manner as to prevent rupture or misalignment by settlement or freezing.

- 3.10 GRADE. All sewer pipes shall be laid with a uniform grade from the building to the public sewer system and no offsetting will be allowed without written permission of the Superintendent.
- 3.11 OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be the responsibility of the owner. The owner shall pay for all sewer construction and maintenance costs from the building wall to it's connection to the sewer main. 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.
- 3.12 INTERCEPTORS. Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, garages, and other facilities, when in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity as provided by the State Plumbing Code, and shall be located so as to be readily and easily accessible for cleaning and inspection.
1. REQUIREMENT. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gas tight and water tight.
 2. MAINTENANCE. All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his or her expense in continuously efficient operations at all times.
- 3.13 EXCAVATIONS. Excavations for sewers shall be dug so to present the least possible inconvenience to the public and to provide for the passage of water along the gutter. Such excavations shall have proper barricades at all times, and warning lights placed from one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise. The excavation must be backfilled in accordance with city specifications as to material and compaction so as to prevent settlement. The plumber must maintain the affected area in good repair to the satisfaction of the council for three (3) months after refilling. No excavation shall be made within six (6) feet of any laid water 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.
- 3.14 SEPARATE TRENCHES. The building drain and water service pipe shall be at least ten feet apart horizontally, and shall be separated by undisturbed or compacted earth.
- 3.15 EXCEPTION. The building sewer or building drain may be placed in the same trench with the water service pipe provided the following conditions are met:
1. WATER SERVICE PIPE ABOVE SEWER LINE. The bottom of the water service pipe, at all points, shall be at least twelve inches above the top of the sewer line at its highest point.

2. **WATER SERVICE PIPE ON SHELF.** The water service pipe shall be placed on a solid shelf excavated at one side of the common trench. Where ground conditions do not permit a shelf, the pipe may be laid on a solidly tamped backfill.
 3. **NUMBER OF JOINTS.** The number of joints in the water service pipe shall be kept to minimum.
 4. **PRESSURE PROHIBITED.** No part of the building sewer or building drain shall be under pressure.
- 3.16 **RESTORATION OF PUBLIC PROPERTY.** Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
(Code of Iowa, Sec. 364.12)
- 3.17 **COMPLETION BY CITY.** Should any excavation be left open or partly refilled for twenty-four (24) hours after the private sewer is installed and connected with the public sewer, the Superintendent shall have the right to finish or correct the work, and the 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. The plumber's bond required for a plumber's license 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(3h))
- 3.18 **INSPECTION AND APPROVAL.** All private sewers and their connections with the public sewers must be inspected and approved by the Superintendent before being backfilled. If approval is refused, the plumber or owner must proceed immediately to correct the work so that it will meet with approval.
- 3.19 **PROHIBITED DISCHARGE SPECIFIED.** No person shall discharge or cause to be discharged any of the following described waters or waste to a public sanitary sewer:
1. **SURFACE WATERS.** Any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters.
 2. **HIGH TEMPERATURE.** Any liquid or vapor having a temperature higher than 150 degrees F.
 3. **FAT OIL, GREASE.** Any water or waste which contains more than one hundred (100) parts per million by weight of fat, oil, or grease.
 4. **FLAMMABLE MATERIALS.** Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 5. **"Garbage":** shall mean solid wastes from the preparation, cooking and dispersing of food, and from the handling, storage and sale of produce.

6. **SOLID OR VISCOUS SUBSTANCES.** Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city's sewage and treatment system.
7. **SUSPENDED SOLIDS.** Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
8. **CORROSIVE WASTES.** Any water or wastes having corrosive properties capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of pH between 4.5 and 10.0.
9. **SLUGS.** Any wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids.
10. **NOXIOUS OR MALODOROUS GAS.** Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
11. **TOXIC OR POISONOUS SUBSTANCE.** Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
12. **MATERIALS WHICH REACT WITH WATER OR WASTES.** Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to sewage structures and treatment processes.
13. **SPECIAL AGREEMENTS PERMITTED.** No statement in this section shall be construed as preventing any special agreement, arrangement or contract between the council and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions as to treatment, rate and cost as established by the council.
14. **SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interest of the sewer system.

15. DISCHARGE BY SUMP PUMP. During the period from October 15th to April 15th the discharge from sump pumps may be directed to the sanitary sewer system without penalty.
 16. SUSPENDED SOLIDS. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
 17. ABANDONED SEWER LINES. When a sewer line in a home or business is discontinued or abandoned, the property owner shall dig the line and cap it off so that no fresh water may be discharged in to the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his or her approval.
- 3.20 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer system upon the terms and conditions stipulated by resolution of the council.
(Code of Iowa, Sec. 364.4(2&3))
- 3.21 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines located upon the private property of any owner which is in violation of any of the requirements of this article, with the exception of the requirements of Subsection 3.19(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
- 3.22 RIGHT OF ENTRY. The City of Orange City reserves the right for its department personnel, employees, or agents to enter upon the premise of any Sewer Utility customer served hereunder between the hours of 7:00 o'clock a.m. and 5:00 p.m. for the purpose of making routine inspections and for any special or emergency inspection which might be required without advanced notice to such user.

(Editor's Note: Section 3.22 Right of Entry was added amended at time of 2008 Codification.)

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 4 - PRIVATE SEWER SYSTEMS

4.01 DEFINITIONS. The following terms are defined for use in this article.

1. "Private Sewage Disposal System" means all equipment and devices necessary for proper conduction, collection, storage, treatment and disposal of sewage from a dwelling or other facility serving the equivalent of fifteen (15) persons or less and including building sewers, septic tanks, absorption fields, leaching or seepage pits, privy vaults and subsurface sand filters.
2. "Reasonably Accessible" means a distance from a property to a sanitary sewer of 100 feet but the council may make a determination that up to 250 feet is practical for a connection to a public sewer system in specific circumstances.

4.02 WHEN PROHIBITED. No private sewage disposal system shall be installed where a public sanitary sewer is reasonably accessible as determined by the council unless an exception is granted in writing.
(IAC, 567-69.1(3))

4.03 PRIVATE SYSTEM REQUIRED. When a public sanitary sewage is not reasonably accessible, every building wherein persons reside, congregate or are employed shall be provided with private sewage disposal system complying with state and local laws.
(IAC, 567-69.1(3)(a)(3))

4.04 CONNECTION REQUIRED WHEN AVAILABLE. When a public sanitary sewer becomes reasonably accessible, any building then served by a private sewage disposal system shall be connected to the public sewage system at the property owner's expense.
(IAC, 567-69.1(3)(a)(2))

4.05 PRIVATE SYSTEMS ABANDONED. Within sixty (60) days of notice that a public sewer is available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer and the private sewage disposal facility shall be abandoned and filled with suitable material.
(Code of Iowa, Sec. 364.12(3f))

4.06 COMPLIANCE WITH STATE RULES. The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Health.

4.07 DISCHARGE TO NATURAL OUTLETS PROHIBITED. No septic tank or cesspool shall be permitted to discharge to any natural outlet or drain into the open.
(IAC, 567-69.1(3)(b))

- 4.08 MAINTENANCE OF FACILITIES. The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all time and at no expense to the city.
- 4.09 DISPOSAL OF WASTE. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any place in the city except where may be designated by the council. The rate or charge for receiving such waste shall be determined by resolution of the council.
- 4.10 ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his or her official capacity.

CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 5 - SEWER RENTAL

- 5.01 SEWER RENTAL REQUIRED. Every contributor shall pay to the city sewer rental fees as hereinafter provided.

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

- 5.02 RENTAL RATES. Each contributor shall pay a sewer rental and wastewater treatment in an amount as determined by ordinance of the City Council. Each contributor shall pay a monthly amount for use of said sewer services as follows:

EFFECTIVE APRIL 2014

RESIDENTIAL:

Customer Charge \$13.00

Volume Charge per 100 CF \$1.41

COMMERCIAL/LIGHT INDUSTRY:

Customer Charge \$20.50

Volume Charge per 100 CF \$1.41

Residential and commercial/light industry sewer rates are calculated on water consumption for the winter quarter, January, February and March of each year. Industrial customers are calculated on water consumption on a monthly basis. The purpose for this is to eliminate sewer charges for water consumed for outdoor purposes such as sprinkling, gardening, trees, and other uses in which the consumed water will not contribute to the total volume of wastewater for sanitary treatment.

(Editor's Note: Ordinance 776 was approved by City Council on March 3, 2014 amended Section 5.02 Rental Rates.)

- 5.03 SPECIAL RATES. Where in the judgment of the council, special conditions exist to the extent that the application of the sewer rental provided in section 5.02 would be inequitable or unfair to either the city or the contributor, a special rate shall be proposed by the council and submitted for approval by resolution.

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

- A. SURCHARGE. The Council reserves the right to apply a sewer surcharge to any user whose discharge strength of waste water is proven to be excessive. Said surcharge to be determined by Resolution of the Council. It is recommended that said surcharge be employed where the volumes of BOD, and suspended solids exceed 300 mg/L each, where grease exceeds 150 MG/L and ammonia exceeds 25 MG/L. The monthly surcharge could then be calculated as follows:

$$\text{Monthly Surcharge} = (8.33/10^6) V X [(BOD-300)+SS-300)+Grease-150)+NH_3-N-25)]$$

8.33 = lb./gallon

V = volume in gallons per month

X = cost per pound of treated pollutants

10^6 = conversion factor

5.04 Reserved for Future Use.

5.05 Reserved for Future Use.

- 5.06 PRIVATE WATER SYSTEMS. Contributors whose premises are served by a private water system shall pay sewer rentals based upon water use as determined by the council either by an estimate agreed to by the contributor or by metering the water system at the contributor's expense. Any negotiated or agreed upon sales or rentals shall be subject to approval of the council.

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

- 5.07 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the same terms and conditions, including penalty for late payment, provided for payment for electric service except that the provisions of section 5.08 shall be used to enforce collection of delinquent sewer charge. Water service may not be discontinued for failure to pay sewer rental charges.

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

- 5.08 LIEN FOR NONPAYMENT. Sewer rental charges remaining and delinquent after the due date shall constitute a lien upon the premises served and shall be certified by the Clerk to the county auditor for collection in the same manner as property taxes.

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

CHAPTER 3: WATER SERVICES

ARTICLE 6 - PUBLIC WATER SYSTEM

- 6.01 PURPOSE. The purpose of this chapter is to provide for the regulation of the public water system and water meters and the establishment of water rates.
- 6.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.
 2. "Water Main" means a water supply pipe provided for public or community use.
 3. "Water Service Pipe" means the pipe from the water main to the building served.
 4. "Customer" means any person receiving water service from the city.
 5. "Superintendent" means the waterworks Superintendent or his or her duly authorized assistant, agent or representative.
- 6.03 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 provided by the Iowa Administrative Code, Title 661, Chapter 16, division IV, published by the State of Iowa, which are hereby adopted.
- 6.04 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 system if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.
- 6.05 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber.
- 6.06 PERMIT REQUIRED. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The following shall apply to all permits:
- (Code of Iowa, Sec. 384.84(2))
1. APPLICATION. Application for the permit shall be filed with the City on forms furnished by the city. It 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 will be allowed except by written permission of the City.

2. ISSUANCE. The City shall issue the permit stating the time of issuance, if the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must begin within six (6) months after it is issued. The City may at any time revoke the permit for any violation of this article and require that the work be stopped.
3. FEE. Before any permit is issued the person who makes the application shall pay to the City the cover cost of issuing the permit and supervising, regulating and inspection of the work.

6.07 FEE FOR INITIAL CONNECTION. The fee for the initial connection of ¾" water lines shall be \$350.

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

(Editor's Note: Section 6.07 was amended to increase the fee for initial connection of ¾" water lines to \$350.00 at time of 2008 Codification.)

6.08 ABANDONED CONNECTIONS. When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely water tight.

6.09 TAPPING MAINS. All taps into water mains shall be made under the direct supervision of the Superintendent and in accord with the following:

1. INDEPENDENT SERVICES. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the council and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. SIZES AND LOCATION OF TAPS. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint of the main.
3. CORPORATION COCK. A brass corporation cock of the pattern and weight approved by the council shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one (1) size smaller than the service pipe.
4. LOCATION RECORD. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as required by the Superintendent.

6.10 INSTALLATION OF WATER SERVICE PIPE. Service pipe (¾" and 1") from the main to the water meter must be of either (A) type K copper pipe or (B) polyethylene pipe that is ISP Class 200 minimum, AWWA C901. All such service pipe, regardless of whether it is copper or polyethylene, must have an inside diameter of not less than three-fourths (¾) of inch. All polyethylene service pipes shall be installed with No. 12 solid copper tracer

wire. Such wire shall start at the water main, surface at the curb stop, and continue until the water meter. Connections to polyethylene service pipe shall be with brass compression-style fittings with stainless steel insert stiffeners.

(Editor's Note: Ordinance 766 was approved by City Council on June 18, 2012 and replaced section 6.10)

- 6.11 CURB STOP. There shall be installed a main shutoff valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the council. The shutoff valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.
- 6.12 INTERIOR STOP AND WASTE COCK. There shall be installed a shutoff valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with the service to the others.
- 6.13 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers in Sec. 3.13 of this Title.
- 6.14 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent has the right to finish or correct the work, and the council will assess the costs to the property owner or the plumber. Assessments will be collected as provided for in Section 3.21 of this Title.
- 6.15 SHUTTING OFF THE WATER SUPPLY. After giving reasonable notice, the Superintendent may shut off the supply of water to any customer because of any substantial violation of this article. The supply shall not be turned on again until all violations have been corrected and the council has ordered the water to be turned on.
- 6.16 TURN ON FEE. Turn on fee. The fee to turn on water service after it has been shut off due to a violation or after a requested disconnect of more than two days shall be \$25.

(Editor's Note: Section 6.16 was amended at time of 2008 Codification.)

- 6.17 OWNER RESPONSIBILITY ON SERVICES. For services that are 1" or less, it shall be the responsibility of the owner of the property connected to any water main to keep in good repair and free of any leaks, from the curbstop to the meter. For services greater than 1", it shall be the responsibility of the owner of the property connected to any main to keep in good repair and free of any leaks, from the water main to the meter.

(Editor's Note: Ordinance 766 was approved by City Council on June 18, 2012 and replaced section 6.17)

- 6.18 FAILURE TO MAINTAIN. When any part of the service to which the owner is responsible becomes defective and leaks and the owner fails to repair the leak and any damage to street surface resulting from the leak, the city may do so and assess the costs to the property owner and if not paid within 30 days of billing, the Clerk shall certify the cost to the county auditor to be collected in the same manner as taxes.

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

(Editor's Note: Ordinance 766 was approved by City Council on June 18, 2012 and replaced section 6.18)

- 6.19 WATER MAIN EXTENSION POLICY. A water main extension will be made by the city upon application by any person desiring service to his or her property who signs a contract for such service and pays the cost thereof through a connection charge or otherwise as required by this chapter. No water main will be extended beyond the city limits for commercial or residential purposes unless the applicant agrees to voluntarily petition for annexation simultaneously with such extension where the applicant's property is contiguous to the corporate limits, or agrees to so petition as soon as the applicant's property becomes contiguous to the city limits and files for future use such petition so conditioned.

Water mains will be extended beyond the city limits for any industrial establishment which will employ ten employees or more within one year of the extension over the above existing employment in the community, without annexation being required if it is shown that the industry needs the tax benefit, or if it is on property not contiguous to the city limits.

If the water Superintendent determines that no foreseeable need will occur for a public water main, and so recommends to the city council upon council approval, an applicant for service may be permitted to construct a private main in an undeveloped public right-of-way (i.e. no traveled way or no more than a graded and/or traveled vehicular way), provided the work shall meet the city requirements for installations in the public way, including placement in the standard location, protection of work, quality of construction, and backfilling. Such main shall originate in a meter and be the property of the owner who shall be responsible for maintenance in the same manner as with water service pipes. It shall be a condition of the contract for connection that the city will not reimburse the owner for such a main if it has to be replaced with a public main after five years or more use.

- 6.20 MAIN EXTENSION CHARGES. Water service shall be provided through an extension of a water main in the following cases:

1. For distances up to 50 feet beyond existing end of a city-owned main, upon request of a person who contracts to immediately tap the main upon the completion of the extension and who can be expected to use water service upon the completion of construction of the residence or commercial building or facility to be served...no connection charge.
2. Where two applicants, one on each side of a street make application at the same time under the same contract conditions as in "1." above, extension will be made for 100 feet...no connection charge.

3. Where a single tap is contemplated by an applicant for an extension exceeding 50 feet and it is not foreseeable that other customer taps will be applied for before construction is begun, the applicant shall deposit with the City Clerk a sum equal to the estimated cost of the extension required, as determined by the water Superintendent, and enter into a contract providing for the deposit and any future rebates in accordance with the following provisions:
 - a. The city will refund any excess of deposit over the actual cost for the extension.
 - b. For each customer later connected to the main the city will rebate the proportional share (by feet of frontage) as set out in the contract, the cost of the extension to the original applicant, but not in excess of the final payment by that applicant, provided such connections are made within five years, after which time no rebates shall be paid. However, the applicant shall be entitled to a refund of the unpaid balance of the full amount deposited with the city whenever the revenue derived from the sale of water to customers directly connected to the extension is equal in each of two consecutive twelve (12) month periods within the five years following application to ten (10) percent of the total actual cost of the main extension. Customer is defined as the occupant of a one-family dwelling, a one-family portion of a two-family dwelling, or as a single commercial establishment contracting for water in its own name (and from its own meter).
 4. The main extension shall be built to city standards and become the property of the city as it is installed. If the applicant hires the construction, the city shall inspect the work for compliance with city standards and may enforce the specifications.
- 6.21 WATER MAIN CONSTRUCTION STANDARDS. No water tap will be allowed for service to a property except when a public water main runs along the street in front of the property (unless an alley or easement is determined by the city to be the best approach to serving the property) and at least ten (10) feet beyond the side property line, extended, nearest to the supply side of the main. The tap must be at least four (4) feet beyond that property line, extended, of the abutting property. No public main shall be less than six (6") inches in diameter, but no such six-inch (6") main shall be extended more than two hundred (200) feet and only if no foreseeable and feasible user can be served beyond said 200 feet. The city reserves the right to put in the size of main required for an adequate system of mains in the future to provide fire flow and adequate pressure for reasonably foreseeable customer service. The main shall be installed and of the quality required by specifications adopted by the council upon recommendation of the water Superintendent.
- 6.22 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved by the Superintendent. If approval is refused, the plumber or property owner must immediately proceed to correct the work in order to meet approval.

6.23 WATER CONSERVATION PLAN. The City Administrator is authorized to manage the City's water supply and to take special measures to preserve the water supply in the event of a shortage.

1. **AUTHORITY.** The Mayor is hereby authorized and directed to implement water conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth in 6.23(4) below, the Mayor shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability at the well head; supply capacity, rate of usage an projected supplies of wells in the water system; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakage, stoppages, and leaks; supplementary source date; and safety and such other data pertinent to the past, current and projected water demands.
2. **NOTICE.** The Mayor shall provide notice of the declaration of a water alert or water emergency or water emergency as hereinafter set forth in section 6.23(4) below by whatever means may be reasonably available to notify all person in the City of the water conversation efforts to be imposed. However, no penalties for violation of the declared water alert or water emergency shall be imposed until the declaration shall be published in a newspaper of general circulation in the City; but upon such publication, all person in the city shall be required to comply with the terms and conditions of the water alert or emergency declaration until said declaration is terminated by the Mayor or resolution of the Council. For the purposes of this section, the terms "person" and "in the city" shall have the meaning as set forth above in this code, and in addition shall mean all persons using water from the city water system.
3. **EXCEPTIONS.** The provisions of this Ordinance or regulations promulgated hereunder, which are hereby authorized, shall not apply to any governmental activity, institution, business or industry, upon a proper showing to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. The request for exemption shall be directed at the Mayor, and the Mayor shall rule on each such request as soon as is practicable. Any activity, institution, business or industry aggrieved by decision of the Mayor, may appeal said decision to the City Council.
4. **DECLARATION.** Upon determination by the Mayor of the existence of the following conditions, the Mayor shall take the following actions by written declaration:
 - A. **WATER ALERT.** When moderate, but limited, supplies or water are available, the Mayor shall call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by

whatever methods available which may include, but are not limited to, one or more of the items set forth below.

- B. WATER EMERGENCY. When very limited supplies of water are available, the Mayor shall order curtailment of less essential use of water, including, but not limited to, one or more of the items set forth in section 5 below.

- 5. USES SUBJECT TO LIMITATION. When the Mayor shall declare a water alert or water emergency, the declaration shall set forth the level of voluntary or mandatory restrictions to be imposed which may include an outright ban on a particular use of water or other less restrictive measures such as restriction on the hours or days a particular use of water may be made. Level I restrictions are those which shall be first imposed in order to conserve water and Level II restrictions are those which shall be last imposed in order to conserve water, as set forth below:

- A. LEVEL I RESTRICTIONS. Level I Restrictions include:

- i. Watering or irrigation of lawns.
- ii. Washing of trailers, boats, airplanes or any other type of mobile vehicle or equipment, except in facilities operating with a water recycling system as determined by Management. If there is not installed a water recycling system, a commercial establishment for the washing of vehicles above identified shall only operate or be open to the public as set forth in the declaration.
- iii. Washing or cleaning of outdoor surfaces including buildings, sidewalks, driveways, service station aprons, porches or any other outdoor surface.
- iv. Nonessential cleaning of commercial and industrial equipment, machinery, and interior space.
- v. Operation of any ornamental fountain or other structure making a similar use of water.
- vi. Permitting the loss of water through defective plumbing or fixtures, except where the customer can provide proof of prompt repair of the defect.
- vii. Use of water from fire hydrants for any purpose other than fire suppression or other public emergency.

- a. LEVEL II RESTRICTIONS. Level II Restrictions shall include all of Level I and the following:
 - ii. Watering or irrigation of all other outside vegetation excepting greenhouse or balled or potted nursery stocks.
 - iii. Filling of swimming and/or wading pools, or the refilling of swimming and/or wading pools which were drained after the effective date of the declaration, except for the replacement of water loss because of evaporation or overflow caused by use; however, such replacement shall be limited to no more than 75 gallons in a 24 hour period.
 - iv. Serving of drinking water in restaurants cafeterias or other food establishments, unless requested by the individual.
- 6. PENALTY. Any person who shall violate any of the provisions of this Ordinance or any of the conversation regulations issued hereunder or under any declaration issued pursuant to this section shall, upon conviction, subject the person to the penalty provided in Title 1 (1.06) of this code; and in addition, shall cause their suspension from water service. If such water service is suspended, the person shall pay a reconnection fee as set forth in this Chapter.

CHAPTER 3: WATER SERVICE

ARTICLE 7 - WATER METERS

- 7.01 METERS REQUIRED. All water furnished customers shall be measured through meters furnished and sized by the city.
(Code of Iowa, Sec. 384.84(1))
- 7.02 FIRE SPRINKLER SYSTEM. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.
- 7.03 LOCATION. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.
- 7.04 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter by the city.
- 7.05 METER REPAIRS AND COSTS. Whenever a water meter owned by the city is found to be out of order, the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the consumer or property owner, then the property owner shall be liable for the cost of repairs.
- 7.06 RIGHT OF ENTRY. The City of Orange City reserves the right for its department personnel, employees, or agents to enter upon the premise of any Water Utility customer served hereunder between the hours of 7:00 o'clock a.m. and 5:00 p.m. for the purpose of making routine inspections and for any special or emergency inspection which might be required without advanced notice to such user.
- (Editor's Note: Section 7.06 was amended at time of 2008 Codification.)
- 7.07 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with a schedule of such fees adopted by resolution of the council.

CHAPTER 3: WATER SERVICES

ARTICLE 8 - WATER RATES

- 8.01 SERVICE CHARGES. Each customer shall pay for water service provided the customer by the city based upon the customer's use of water, as determined by meters provided for in Article 8 of this chapter. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

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

- 8.02 RATES AND SERVICES. Water service shall be furnished at the following monthly rates within the city:

EFFECTIVE MARCH 18, 2014

RESIDENTIAL:

Customer Charge \$10.25

Volume Charge per 100 cubic ft. \$1.88

COMMERCIAL and INDUSTRIAL:

Customer Charge \$13.25

Volume Charge per 100 cubic ft. \$1.88

HIGH VOLUME (average monthly usage over 100,000 cubic feet):

Customer Charge \$55.00

Volume Charge per 100 cubic ft. \$1.78

Meters are read and billed monthly.

(Editor's Note: Ordinance No. 775 replacing section 8.02 was approved by City Council on March 3, 2014)

- 8.03 RATES OUTSIDE THE CITY. RATES OUSTIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the city which the city has agreed to serve. No such customer, however, will be served unless the customer has signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the council.

(Code of Iowa, Section 364.4(2))

Water service shall be furnished at the following rates outside the corporate limits of the City:

EFFECTIVE MARCH 18, 2014

Customer Charge \$23.00

Volume Charge per 100 cubic ft. \$2.65

Meters are read and billed monthly.

The rate for customers outside the corporate limits shall apply to all users in metered connections existing outside the corporate boundaries of the municipal corporation of Orange City, Iowa.

(Editor's Note: Ordinance No. 775 replacing section 8.03 was approved by City Council on March 3, 2014)

- 8.04 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer either a one hundred dollar (\$100) deposit conditioned on guaranteeing the payment of bills for all utility services, or acceptable credit reference from another utility. The deposit shall be refunded at the end of one year provided all charges and bills due have been paid timely and in full. However, the city can require a new deposit upon the occurrence of circumstances requiring a shut off of water service to the customer.
- 8.05 APPLYING DEPOSIT TO A BILL. If a person fails to pay any amount due for utility services or penalty as a result of moving out of the premises, the City Clerk may draw on the deposit for the amount of the arrears and the balance of the deposit, if any, shall be returned to the last known address of the customer, or to the customer in person. Where the customer pays all amounts due at the time of moving out of the city, the full amount of deposit shall be paid to the customer in person or by mail. Where the person fails to pay after a turn off the City Clerk may draw on the deposit for the amount of arrears, and the balance of the deposit held to apply on the succeeding deposit required at the same or other premises, and water shall not be turned on until the deposit is sufficient to meet the requirements under section 8.04 of this ordinance amendment.

If a deposit is not adequate to pay all arrears at time of the customer's moving from the premises the balance shall be rebilled and the bill sent to the last known address of the customer. Where such rebilling is not paid within 30 days from the mailing of the rebilling, the Clerk shall turn the billing over to the City Attorney for collection by whatever means the attorney deems appropriate. Where the customer applies for water service at a new premises the past due amount shall be paid and an adequate deposit made before the water may be turned on.

All payments out of the customer guarantee deposit fund shall be by check.

8.07 BILLING PERIODS FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the following:

1. METERS READ. Water meters shall be read monthly.
2. PAYMENT. All water charges are due on the 25th day of each month following the close of the billing and payable by the fifteenth of the month to the Clerk. The Clerk shall mail the bill for water rates to the customer at the address of the building within ten (10) days after the end of the billing period.

8.08 DISCONTINUING SERVICE, FEES. The City shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to pay the bill for water on or before the twelfth day after sending notice in writing that the water supply will be shut off. The turn off notice shall contain a statement that the customer has the right to obtain an explanation of the bill from the Superintendent, and if not satisfied may appeal the turn off to the council if requested at least three days before the deadline. The time of notice shall be such that the deadline shall not fall on Friday or the day before a holiday. The Clerk shall send such notice immediately following the delinquent date. Saturdays, Sundays, or a legal holiday intervening during the twelve day notice period shall not be counted. A turn on fee of twenty-five dollars (\$25.00) shall be charged at the time of turn on where separate turn off and turn on trips are made necessary before payment is rendered and service is to be restored to the delinquent customer. No turn on fee or service fee shall be charged for the usual or customary trips in the regular changes in occupancies of property, whether the meter is removed for the safety of the meter, or not removed.

8.09 SHUTTING OFF WATER. The Superintendent, or the Superintendents authorized assistant, may shut off the supply of water to the customer without notice when the customer is found to be using water consuming equipment in a manner adversely affecting the utility's system or its ability to serve others, such as cross-connections, back-siphonage, wastage to the extent of drastically reducing water pressure, or any other action so affecting the safety or proper operation of the system; and the water supply shall not be restored until the customer has corrected the condition. He or she may likewise shut off the water supply to a customer for violation of or noncompliance with the rules by said customer or for failure of the customer to permit the Superintendent, or his or her authorized assistant, reasonable access to the customer's premises for the purposes enumerated in sections 8.05 and 8.06, provided the Superintendent shall have given written notice allowing ten days from date of mailing or personal notice to comply, Sundays or holidays excepted, and such notice shall state that the customer has the right to appeal to the Superintendent for an explanation of the action.

8.10 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. For meter reading outside readers are used for convenience, however, the inside meter reading determines actual usage. The City shall make a test of the accuracy of any water meter when requested in writing. If it is found that such meter overruns to the extent of two percent or more, the cost of the tests shall be paid by the city, and the city will credit on the next bill the overcharges collected since the last known date of accuracy, not to exceed thirty months.

If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.

CHAPTER 4: NATURAL GAS SYSTEM

ARTICLE 9 – PUBLIC NATURAL GAS SYSTEM

- 9.01 ESTABLISHMENT. A Municipal Gasworks is established as authorized by vote of the election on September 29, 1998.
- 9.02 RIGHT TO ENTER AND READ METER. The City of Orange City reserves the right for its department personnel, employees, or agents to enter upon the premise of any Gas Utility customer served hereunder between the hours of 7:00 o'clock a.m. and 5:00 p.m. for the purpose of making routine inspections, read meters and/or remove the gas meter or change said meter in the pursuit of maintenance and safety programs, and for any special or emergency inspection which might be required without advanced notice to such user.
- 9.03 SHUTTING OFF GAS. The gas system manager or an authorized employee may shut off the gas supply to a customer when said customer may be affecting the safety or proper operation of the system.
- 9.04 OTHER SERVICES AND CHARGES. The City may purchase or furnish and establish charges for such services in connection with the natural gas system as the Council, by resolution, may approve from time to time.
- 9.05 DISCONNECTION PROCEDURES. Failure to pay rate charges and billings according to the rules and regulations of the Iowa Utilities Board may subject a natural gas customer to a disconnection of service. The penalty for re-connection after disconnection by reason of delinquent shall be twenty-five dollars (\$25.00) and shall be paid prior to any such reconnection of service required after delinquency disconnection.

A temporary disconnection (two days or less) and subsequent reconnection of gas service will be done at the request of the customer at no charge. Disconnections for more than two days will be charged \$25.00 for reconnection.

(Editor's Note: Section 9.05 was amended at time of updating City's Code in 2008)

CHAPTER 4: NATURAL GAS SYSTEM

ARTICLE 10 – NATURAL GAS RATES

10.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipal gas utility. The provisions of this Chapter, including service rules and regulations adopted in accordance with these provisions, shall apply to customers both inside and outside the city, whether or not such customer has a contract for gas service with the City.

10.02 DEFINITIONS. For the purposed of this chapter:

1. “Consumer” of “Customer: means, in addition to any person or legal entity receiving gas service from the municipal gas utility, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
2. “Btu” of “British Thermal Unit” is measure of energy representing the heat necessary to raise the temperature of one pound of water by 1 degree, Fahrenheit.
3. “Gas Utility” means all facilities of the municipal gas utility for transmitting, and distributing gas.
4. “Mcf” is a volumetric measure of gas equal to 1,000 cubic feet. (On average, an Mcf contains 1.031 million Btu.)
5. “Therm” is a volume of gas containing one million Btu.

10.03 SERVICE RULES OF THE MUNICIPAL ELECTRIC UTILITY. The Council shall adopt, by resolution, appropriate operating rules governing the municipal gas utility, which shall be entitled “Service Rules of the Municipal Gas Utility”.

(Editor’s Note: Sections 10.01, 10.02 & 10.03 were added at time of updating the Code Book in 2014).

10.04 RATE SCHEDULE.

1. SMALL VOLUME FIRM/SMALL TRANSPORT (SVF/STS):
Applicable to any customer with less than 500 therms/day peak.
Minimum Monthly Charge: \$9.00 per month
Local Delivery Charge: 0.12188 per therm
2. MEDIUM VOLUME FIRM/MEDIUM TRANSPORT (MVF/MT):
Applicable to any customer with 500 - 2000 therms/day peak.
Minimum Monthly Charge: \$150.00 per month
Local Delivery Charge: 0.06966 per therm
3. SMALL VOLUME INTERRUPTIBLE (SVI):

Applicable to any customer with less than 2000 therms/day peak.
Minimum Monthly Charge: \$100.00 per month
Local Delivery Charge: 0.05800 per therm

4. LARGE VOLUME INTERRUPTIBLE/LARGE TRANSPORT (LVI/LT):
Applicable to any customer with more than 2000 therms/day peak.
Minimum Monthly Charge: \$400.00 per month
Local Delivery Charge: 0.02212 per therm

In addition to the local delivery rates listed above, charges for gas supply and transport to the city border station are included as pass through charges on customer bills.

Transport customers are only billed for monthly minimum charges and local delivery charges.

- 10.03 CATEGORIES OF SERVICE. The Council, by resolution, shall from time to time establish various rate categories according to cost, service, amount, whether interruptible or standby, as well as provide for minimum charges, late payment penalty and connection or reconnection charges.
- 10.04 RATES UNIFORM. Within the various categories, all charges made and established shall be of uniform application to all users within said category.

CHAPTER 5: FRANCHISES

ARTICLE 11 – FRANCHISE REQUIREMENTS

- 11.01 PURPOSE. The purpose of this ordinance is to regulate utility services delivered within the city and to that end franchise agreements are required.
- 11.02 FRANCHISE REQUIRED. No person or other entity shall erect, maintain and operate plants and systems for electric light and power, heating, telegraph, cable television, district telegraph and alarm, communication systems of any type, public transit systems, waterworks, or gasworks within the City without a franchise from the City.
- 11.03 USER FEE. Any person or other entity operating under a franchise or without a franchise shall pay to the City a user fee of five (5) percent of the gross revenues derived from any sales through the distribution system within the City. Said payment is a form of rent and grants no rights to any person or other entity. Any person or entity (whether paying a user fee or not) may be ejected from public property if operating without a franchise, and in addition, the City reserves all rights and remedies it may have at law, in equity or otherwise against such persons or other entities.
- 11.04 GRANTING OF FRANCHISE. No franchise or permit giving or granting to any person or entity the right or privilege to erect, construct, operate, maintain or use any natural gas pipeline, natural gas system, electric light and power system, waterworks or communications system of any type within the City for the purpose of selling, distributing or providing non-municipal natural gas, electrical power and energy or communications to any user or consumer within the City, or using the streets or alleys of the City for such purpose or interconnecting any building, structure or facility of any kind to any natural gas pipeline or system, or electrical line or system, other than to the natural gas or electrical system of the City, shall be given or granted, except by ordinance. No such ordinance shall be considered until after the question of the granting of the necessary franchise shall be submitted to and approved by a majority of the qualified electors of the City at an election held for such purposes at the expense of the applicant for such franchise (unless such election is prohibited by State or Federal Law).
- 11.05 UTILITY SYSTEMS PROHIBITED. Unless a franchise has been granted under the provisions of Article 11.03, no person shall erect, construct, operate, maintain or use any natural gas pipeline, natural gas system, electric light and power system, waterworks, or communications system within the City in order to sell or distribute or provide non-municipal natural gas, electrical power and energy, or communications to any user or consumer within the City, or use the streets or alleys of the City for such purpose, or interconnect any building, structure or facility of any kind to any natural gas pipeline or system, electrical line or system, or communication other than to a system of the City.

11.06 VIOLATION. If any person, firm or corporation constructs, operates or maintains any natural gas pipeline, natural gas system, electric light and power system, waterworks, cable communication system or other communications system or sells or distributes any natural gas, electricity or communications within the City, or makes any connection with gas or electrical lines or communication systems contrary to the provisions of this chapter, then the City Attorney may commence an action in the name of and on behalf of the City for suitable and appropriate legal, equitable or other relief, including, but not limited to an order ejecting said person or other entity from the public right of way and directing the removal of all personal property from said public right of way at the sole cost of said person or entity.

Editor's Note: Ordinance 714 was approved by City Council on September 9, 2002 and created Article 11 – Franchise Requirements.

TITLE 11 ZONING ORDINANCES

Editor's Note: Title 11 of the Orange City Municipal Code was adopted and published in accordance with Iowa Law, and inclusion in the Code follows the format in place at the time of adoption and publication, although the style of headings and numerical references vary somewhat from the rest of the Code.

CITY OF ORANGE CITY, IOWA

AN ORDINANCE to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; to regulate and restrict the height of buildings and structures, the number and size of buildings and other structures; to establish the size of yards and courts and other open spaces; to establish minimum lot areas; to regulate off-street parking; to regulate the location, size and number of signs; to divide the City into districts for such purposes; to provide for the administration and enforcement of its provisions; to create a Board of Adjustment; to prescribe penalties for the violation of its provisions, all in accordance with Chapter 414, Code of Iowa; and to be known, and Cited as,

"THE ZONING ORDINANCE OF THE CITY OF ORANGE CITY, IOWA"

WHEREAS, the City Council of the City of Orange City, Iowa, deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers, to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid concentration of population; to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; to conserve the value of buildings, and encourage the most appropriate use of land throughout the City; all in accordance with the comprehensive plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, IOWA:

ARTICLE #1 / SHORT TITLE

Section 1: This ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of the City of Orange City, Iowa", to the same effect as if it the full title were stated.

ARTICLE #2 / INTERPRETATION OF REGULATIONS

Section 1: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes greater restrictions than is imposed or required by other provisions of law or other rules or regulations or ordinances, the provisions of this Ordinance shall govern.

ARTICLE #3 / DEFINITIONS/USE CLASSIFICATIONS

Section 1: DEFINITIONS. For the purpose of interpreting this Code, certain words, terms and expressions are herein defined. Words used in the present tense include the future; the singular; includes the plural and the plural the singular; the word "may" is discretionary and the word "shall" is mandatory.

ADDITION: Any construction which increases the site coverage, height, length, width or floor area of a structure.

ALLEY: A public or private way permanently reserved as a secondary means of access to abutting property.

ALLEY, SERVICE: A service roadway providing a secondary means of public access to abutting property intended only for service access to utilities and not to be used for general traffic circulation.

ATTACHED: Having one or more walls in common with a principal building, or joined to a principal building by a covered porch or passageway.

ATTIC: A space under a gable, hip or gambrel or other roof, the finished floor of which is or would be at or entirely above the level of the wall plates of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten feet (10').

BASEMENT: A story partly underground but having at least one-half (1/2) of its height above the curb level, and also one-half (1/2) of its height above the highest level of the adjoining ground, with a floor to ceiling dimension of at least six and one-half feet (6 1/2').

BOARDING OR LODGING HOUSE: A building other than a hotel, where for compensation and by arrangement, lodging is provided for three (3) or more persons.

(Editor's Note: Ordinance 727 was approved by City Council on August 16, 2004 and amended definition of Boarding or Lodging House)

BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

BUILDING: A roofed structure supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.

BUILDING, ACCESSORY: A building which is subordinate to the main building on the lot, not attached thereto and used for purposes customarily incidental to those of the main building. Private garages are accessory buildings.

BUILDING, HEIGHT OF: The perpendicular distance measured in a straight line from the curb level to the highest point of the roof. Where a building is situated on ground above the curb level or where no curb grade is established, such height shall be measured from the level of the adjoining ground at the middle of the front wall.

BUILDING LINE: The setback distance from the front property line, rear lot line, and side lot lines as provided in this Code.

BUILDING WALL: The wall of a building forming a part of the main structure. The foundation walls of unenclosed porches, steps, walks and retaining wall or similar structures, shall not be considered as building walls under the provisions of this Code.

CONDOMINIUM: A multi-family dwelling or townhouse as defined herein where the fee title to each dwelling is held independently of the others and title to common areas is held jointly by dwelling unit title holders.

COURT: An open space fully enclosed on at least three (3) adjacent sides by walls of a building. An outer court is any court facing for its full width on a street, or on any other required open space not a court.

CURB LEVEL: The established curb grade adjacent to a lot.

DECK: A non-roofed structure open on two (2) or more sides projecting from, side, or rear wall of a building.

DETACHED: Fully separated from any other structure; not attached.

DRIVE-IN SERVICE: A feature or characteristic of a use involving sale of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing.

DRIVEWAY: An area providing vehicular access between a street and an off-street parking or loading area.

DWELLING: Any building or portion thereof which is designed or used primarily for residential purposes but not including a tent or trailer.

DWELLING, SINGLE FAMILY: A detached building that is arranged, designed or intended to be occupied as the residence of a single family and having no party wall in common with an adjacent building.

DWELLING, TWO FAMILY: A detached building that is arranged, designed or intended to be occupied as the residence of two (2) families or housekeeping units living independently of each other.

DWELLING, MULTI-FAMILY: An apartment house or dwelling used or intended to be used or occupied as the residence of three (3) or more families or housekeeping units living independently of each other.

EASEMENTS: The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

FAMILY: A group of individuals living and cooking together on the premises as one housekeeping unit, but a family shall not include more than three (3) individuals not related by blood or marriage.

FENCE: Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

GARAGE, PRIVATE: An accessory building or portion of a building in which one or more motor vehicles are housed, but in which no business services or industry connected with the motor vehicles is carried on other than leasing of space.

HOME OCCUPATION: An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Refer to Article 14, Section 3 for home occupation regulations.

KENNEL: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

KENNEL, PRIVATE: Any building or buildings or land designed or arranged for the care of dogs and cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

LOADING SPACE: An area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

LOT: A parcel of land under common ownership having its frontage upon one or more streets or on an officially approved place.

LOT AREA: The net horizontal area within bounding lot lines, but excluding any portion of a flag (panhandle) lot providing access to a street and excluding any public or private easement or right-of-way providing access to another lot.

LOT, CORNER: A lot fronting on two (2) intersecting roads.

LOT COVERAGE OR BUILDING COVERAGE: The area of a lot covered by buildings or ground level paving, but excluding incidental projecting eaves, balconies, and similar features and excluding landscaping and open recreational facilities.

LOT, DEPTH: The distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.

LOT, WIDTH: The distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: The lines bounding a lot.

LOT LINE, FRONT: In the case of an interior lot abutting on only one street, the "front lot line" is the street line of such street. In the case of any other lot, it may be such street line as is selected by the owner as the "front lot line" for the purpose of this Code, provided that the principal entrance to such building shall be on the street so selected.

LOT LINE, REAR: That boundary line which is opposite and most distant from the front lot line.

LOT LINE, SIDE: Any boundary line not a front line or a rear lot line.

LOT OF RECORD: A lot or parcel of land the deed or valid contract of sale which was recorded in the office of the county recorder of Sioux County, Iowa prior to April 5, 1960.

LOT, THROUGH: A parcel of land under common ownership having a frontage upon one street or officially approved place and having a second and opposite frontage upon another street or officially approved place.

MANUFACTURED HOME, (previously called mobile home): A structure transportable in one or more sections which when placed on site measures eight body feet or more in width by forty body feet or more in length or when placed on site is three hundred and twenty or more square feet in area, and which is built on a permanently transportable chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained therein. This definition shall also include and apply to such manufactured home (formerly mobile homes) converted to real estate. All manufactured homes (formerly mobile homes) shall be located within a manufactured home park.

MANUFACTURED HOME (formerly mobile home) Converted to Real Estate: An unencumbered manufactured home which has been attached to a permanent foundation on real estate owned by the manufactured home owner, which has had the vehicular frame destroyed, rendering it impossible to reconvert to a mobile manufactured home and which has been inspected by the assessor, the manufactured home title, registration, and license plates collected from the owner and the property entered on the tax rolls of the County. Manufactured homes converted to real estate are not allowed within the City of Orange City.

MANUFACTURED HOME (formerly mobile home) Park: The term "manufactured home park" shall mean any site or tract of land upon which two (2) or more occupied manufactured homes are parked and connected to utilities, either free of charge or for revenue purposes, and shall include any building, structures, or enclosure used or intended for use as part of the equipment of such manufactured home park.

MANUFACTURED HOME (formerly mobile home) SPACE: An area within a manufactured home park which is designed for and designated as the location for a single manufactured home and the exclusive use of its occupants.

MODULAR HOME: A factory-built structure designed to be transported from the factory and placed upon a permanent foundation or basement and used as a place of human habitation. A

modular home must be constructed to comply with the Iowa state building code for modular factory built structures, and must display the seal issued by the state building code commissioner.

NONCONFORMING USE: A lawful use of any land, building, or structure, other than a sign, that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

PARKING FACILITY: An area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features, and meeting the requirements established by this Ordinance. The term "parking facility" shall include parking lots, garages, and parking structures.

PARKING SPACE: An area on a lot or within a building, used or intended for use for parking of a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this Ordinance. The term "parking space" is equivalent to the term "parking stall" and does not include driveways, aisles, or other features comprising a parking facility.

PRINCIPAL USE: The main use of land or structures as distinguished from an accessory use.

PUBLIC WAY: An open or unoccupied public space more than thirty feet (30') in width which is permanently reserved for the purpose of access to abutting property.

PORCH, OPEN: A roofed structure, open on two (2) or more sides, projecting from the front, side or rear wall of the building.

PUBLIC NOTICE: The publication of the time and place of any public hearing not less than seven (7) days prior to the date of said hearing in one newspaper of general circulation in the City.

RECREATIONAL VEHICLE: A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreational vehicle shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, boats and boat trailers, and snowmobiles.

RESIDENTIAL CONVENIENCE SERVICE: A use or activity of a commercial nature conducted as an accessory use to multiple family residential or mobile home park residential use, and intended solely for the convenience of residents thereof.

SETBACK LINE: A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of structures and uses on the lot.

SIGN: An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, persons, institution or business. Refer to Article 18 for sign use regulations.

SITE PLAN: A plan, prepared to scale, showing accurately and with complete dimensions, all of the buildings, structures and uses, and principal site development features including parking, access, and landscaping and screening, proposed for a specific parcel of land.

STORY: That part of any building comprised between any floor and the floor or attic next above; the first story of a building is the lowest story having at least one-half (1/2) of its height above the highest level of adjoining ground.

STREET, FRONT: The street or public place upon which a lot abuts. If a lot abuts upon more than one street or public place it shall mean the street designated as the front street in the owner's application for a building permit.

STREET, LINE: The dividing line between a lot and a public street, alley or place.

STREET, PUBLIC: A public thoroughfare more than thirty feet (30') in width.

STREET, WALL: The wall of the building nearest the street under consideration.

STRUCTURE: That which is built or constructed at least one foot (1') above the ground. "Structures" includes building.

SUBSTANDARD LOT: A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record.

TOWNHOUSE: A dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.

TOWNHOUSE GROUP: Two (2) or more contiguous townhouses having common or abutting walls.

USE: The conduct of an activity, or the performance of a function or operation, on a site or in a structure.

1. Accessory Use: A use or activity which is incidental to and customarily associated with a specific principal use on the same site.
2. Principal Use: A use which is a primary function of a lot or structure.
3. Permitted Use: A use defined by Section 10-11-2 and listed by the regulations for any particular district as a permitted use within that zone, and permitted therein as a matter of right when conducted in accordance with the regulations established by this Ordinance.
4. Special Exception Use: A use defined by Section 10-11-2 and listed by the regulations for any particular district as a special exception use within that district and allowable therein, solely on a discretionary and conditional basis subject to a Special Exception Use Permit, and to all other regulations established by this Ordinance.

VALUATION: The one hundred percent (100%) valuation of a building or structure, as determined by the Sioux County Assessor.

YARD, FRONT: The required space, unobstructed to the sky, open for the whole width of the lot extending from the nearest part of any building of the lot to the front lot line excluding cornices, eaves, gutters or chimneys projecting not more than thirty inches (30"), steps, bay windows or similar features not extending through more than one story and which do not aggregate more than one-third (1/3) of the width of the frontage of the building, and vestibules not more than one story in height and extending more than three feet (3') beyond the front wall of the principal building, one story open porches eight feet (8') or less in depth.

YARD, REAR: The required open space, unobstructed to the sky, extending along the rear lot line (not street line), throughout the whole width of the lot to the rear of the principal building, excluding cornices, eaves, gutters, chimneys projecting not more than thirty inches (30"), uncovered steps, open porches not more than one story in height and eight feet (8') in depth and accessory buildings.

YARD, SIDE: The required open space, unobstructed to the sky, extending along the side lot line from the front yard to the rear yard, excluding cornices, eaves, gutters, chimneys, bay windows, and open porches, or similar features which project into the side yard but are thirty inches (30") or more from the side lot line.

ZONING ADMINISTRATIVE OFFICER: The individual appointed by the City Council of Orange City, Iowa to administer and enforce the provisions of this ordinance.

ZONING COMPLIANCE PERMIT: A permit issued by the Zoning Administrative Officer, authorizing the use of land in the manner and for the purpose specified in the application.

Section 2: USE CLASSIFICATIONS. The purpose of the Use Classifications shall be to provide a consistent set of terms encompassing and defining uses permitted or specifically permitted in the various districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined use classification.

In the event of any question as to the appropriate use classification of any existing or proposed use or activity, the Zoning Administrator shall have the authorization to determine the appropriate classification, subject to the right of appeal pursuant to Chapter 12. In making such determination, the Zoning Administrator shall consider the characteristics of the particular use in question, and shall consider any functional, product, service, or physical facility requirements common with or similar to uses cited as examples of use classifications.

A. GENERAL DESCRIPTION OF RESIDENTIAL USE TYPES: Residential use types include the occupancy of living accommodations on a wholly or primarily non-transient basis but exclude institutional living arrangements involving those providing twenty-four (24) hour skilled nursing or medical care and those providing forced residence, such as asylums and prisons.

1. Single Family Residential: The use of a site for only one dwelling unit.
2. Duplex Residential: The use of a site for two (2) dwelling units within a single building.

3. Two Family Residential: The use of a site for two (2) dwelling units, each in a separate building.
4. Townhouse Residential: The use of a site for three (3) or more townhouse dwelling units, constructed with common or adjacent walls and each located on a separate ground parcel within the total development site, together with common area serving all dwelling units.
5. Condominium Residential: The use of a site for three (3) or more dwelling units intended for separate ownership, together with common area serving all dwelling units.
6. Multiple Family Residential: The use of a site for three (3) or more dwelling units, within one or more buildings.
7. Limited Multiple Family Residential: The use of a site for no more than four (4) one story dwelling units.
8. Group Residential: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family on a weekly or longer basis. Typical uses include occupancy of fraternity or sorority houses, dormitories, residence halls, or boarding houses.
9. Manufactured Home Residential: The residential occupancy of manufactured homes by families on a weekly or longer basis. Uses only include manufactured home parks or manufactured home subdivisions.
10. Residential Animal Husbandry for Recreational Purposes: The use of a site for the purpose of housing and maintaining animals used for personal recreational pleasure. Such use includes the occupancy of horses, cattle, sheep, goats, swine, and similar livestock and fowl for purposes such as pleasure riding, 4H and FFA projects, and similar endeavors.

(Editor's Note: Ordinance 744, Passed & Approved May 5, 2008, added subsection 10 to Article 3, Section 2.A)

B. GENERAL DESCRIPTION OF COMMERCIAL USE TYPES: Commercial use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as Industrial or Civic uses.

1. Administrative and Business Offices: Office of private firms or organizations which are primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.
2. Agricultural Sales and Services: Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries; hay, feed or grain stores, and tree service firms.

3. Agricultural Animal Husbandry (Limited): The raising of cattle, swine, poultry, horses, sheep, goats or similar farm animals for reproductive stock or for slaughter. Such uses shall be conducted completely within enclosed structures.
4. Agricultural Animal Husbandry (General): The raising of cattle, swine, poultry, horses, goats or similar farm animals for reproductive stock or for slaughter.
5. Automotive and Equipment Services: Establishments or places of business primarily engaged in automotive-related or equipment sales or services. The following are automotive and equipment use types:
 - A. Automotive Washing: Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.
 - B. Service Station: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.
 - C. Commercial Off-Street Parking: Parking of motor vehicles on a temporary basis within a privately owned off-street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.
 - D. Automotive Rentals: Rental of automobiles, noncommercial trucks, trailers, and recreational vehicles, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies and taxi parking and dispatching.
 - E. Automotive Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new or used car dealerships, motorcycle dealerships, and; boat, trailer and recreational vehicle dealerships.
 - F. Equipment Sales: Sale or rental of trucks, tractors, construction equipment, agricultural implements, manufactured homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and manufactured homes sales establishments.
 - G. Automotive Repair Services: Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include new and used car dealerships, motorcycle dealerships; and boat, trailer and recreational vehicle dealerships.
 - H. Equipment Repair Services: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but excluding dismantling or salvage.

- I. Vehicle Storage: Long term storage of operational or non-operational vehicles. Typical uses include storage of private parking tow-aways or impound yards, but exclude dismantling or salvage.
- 6. Building Maintenance Services: Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.
- 7. Business Support Services: Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but exclude automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.
- 8. Business or Trade School: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university, or public or private educational facility.
- 9. Cocktail Lounge: A use engaged in the preparation and retail sale of alcoholic beverages for consumption of the premises, including taverns, bars, and similar uses.
- 10. Commercial Recreation: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types.
 - A. Indoor Sports and Recreation: Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, and penny arcades.
 - B. Outdoor Sports and Recreation: Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and racquetball courts.
 - C. Indoor Entertainment: Predominately spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls and dance halls.
 - D. Outdoor Entertainment: Predominately spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, and amusement parks.
- 11. Communication Services: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Major Utility Facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.

12. Construction Sales and Services: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale, from the premises, of materials used in the construction of buildings or other structures other than retail sales of paint, fixtures and hardware; but excludes those classified as one of the Automotive and Equipment Service use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.
13. Consumer Repair Services: Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding Automotive and Equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, or musical instrument repair firms.
14. Convenience Storage: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini warehousing.
15. Convenience Store: An establishment engaged in the retail sale of food and household products, including gasoline. However, the repair, storage or servicing of vehicles shall be prohibited.
16. Crop Production: The growing of the usual farm crops for animal feed or for sale for the manufacturing of food products. Typical uses include corn, soybean or wheat fields.
17. Financial Services: Establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.
18. Food Sales: Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
19. Funeral Services: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.
20. General Retail Sales: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section inclusive. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products, drugs, cards, and stationary, notions, books, tobacco products, cosmetics, and specialty items; flowers, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).

21. Kennels: Boarding and care services for dogs, cats and similar small animals. Typical uses include boarding kennels, pet motels, or dog training centers.
22. Laundry Services: Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services. Typical use types include bulk laundry and cleaning plants, diaper services, or linen supply services.
23. Liquor Sales: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off-site consumption.
24. Medical Offices: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the State of Iowa.
25. Personal Improvement Services: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a non-professional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
26. Personal Services: Establishments primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, shoe repair shops, and self-service laundry or apparel cleaning services.
27. Pet Services: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.
28. Professional Office: A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.
29. Research Services: Establishments primarily engaged in research of an industrial or scientific nature but excludes product testing. Typical uses include electronics research laboratories, space research and development firms, or pharmaceutical research labs.
30. Restaurant (Convenience): A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on premise consumption. Typical uses include soda fountains, ice cream parlors, sandwich shops, cafes, and coffee shops.
31. Restaurant (General): A use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than 50 percent of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner houses and similar establishments with incidental alcoholic beverage service.

32. Riding Academy: A use engaged in the provision of equestrian riding, lessons or for the quartering of horses. Typical uses include saddle clubs, riding stables or liverys.
33. Veterinary Services: Veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.
34. Visitor Habitation: Establishments primarily engaged in the provision of lodging services on a less-than-weekly basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:
 - A. Campground: Campground facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks.
 - B. Hotel / Motel: Lodging services involving the provision of room and/or board where four or more units are offered for occupancy to the general public. Typical uses include hotels, motels or transient boarding houses.
 - C. Bed & Breakfast Inn: A private, owner-occupied housing unit which provides up to four sleeping rooms for rent to the general public. The only meal to be provided to guests is breakfast, and it shall only be served to those taking lodging in the facility. Individual units which are designed to be rented shall contain no cooking facilities.
 - D. Cottage / Resort Enterprise: Any group of buildings containing guest rooms offered for rent primarily for temporary occupancy. Such buildings may include quarters for the boarding of employees.
 - E. Commercial Cottage: A single dwelling unit rented to the general public for periods not exceeding one calendar month.
- C. GENERAL DESCRIPTION OF INDUSTRIAL USE TYPES: Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and storage and distribution of products.
 1. Basic Industry: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.
 2. Custom Manufacturing: Establishments primarily engaged in the on-site production of goods by hand manufacturing which involve only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle making shops or custom jewelry.

3. Light Manufacturing: A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
 4. Resource Extraction: A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.
 5. Scrap & Salvage Services: Places of business primarily engaged in the storage, sale, dimpling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards or paper salvage yards.
 6. Stockyards: Stockyard services involving the temporary keeping of livestock for slaughter, market or shipping. Typical uses include stockyards or animal sales and auction yards.
 7. Warehousing and Distribution: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage and distribution types:
 - A. Limited Warehousing and Distribution: Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.
 - B. General Warehousing and Distribution: Open-air storage, distribution and handling of materials and equipment. Typical uses include monument or stone yards, grain elevators or open storage yards.
- D. GENERAL DESCRIPTION OF CIVIC USE TYPES: Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance.
1. Administrative Services: Offices, administrative, clerical or public contact services that deal directly with the citizens, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county or municipal offices.
 2. Air Ambulances: A facility for landing and takeoff of emergency aircraft relating to medical or hospital service delivery systems, located in close proximity to such medical use, but not within one hundred (100) feet of any principal dwelling.
- (Editor's Note: Article 3, Section D(2) was added by Ordinance 708, approved by Council on November 19, 2001).
3. Aviation Facilities: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

4. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
5. Club or Lodge: A use providing meeting, recreational, or social facilities for a private or non-profit association, primarily for use by members and guests. Typical uses include private social clubs and fraternal organizations.
6. College and University Facilities: An educational institution of higher learning which offers course study designed to culminate in the issuance of a degree.
7. Community Recreation: A recreational facility for use by residents and guests of a particular residential development, planned unit development or limited residential neighborhood, including both indoor and outdoor facilities.
8. Convalescent Services: A use providing bed care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care of alcoholism, drug addiction, mental disease, or communicable disease.
9. Cultural Services: A library, museum, art gallery, or similar non-profit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.
10. Day Care Services (Limited): A facility, or use of a building or portion thereof, for the care of six (6) or fewer individuals. This term includes nursery schools, pre-schools, day care centers for children or adults, and similar uses.
11. Day Care Services (General): A facility, or use of a dwelling unit or portion thereof, for the care of seven (7) or more individuals. This term includes nursery schools, pre-schools, day care centers for children or adults, and similar uses.
12. Detention Facilities: A publicly operated use providing housing and care for individuals confined by law.
13. Game Refuge: A use of land providing natural habitat for animals and plant species. Typical uses include prairies, marshes, woodlands and wetlands.
14. Guidance Services: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition, either on a residential or daytime care basis.
15. Hospital Services: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary

facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

16. Local Utility Services: Services which are necessary to support principal development and involve only minor structures such as lines, poles, transformers, control devices and junction boxes which are necessary to support principal development.
17. Maintenance and Service Facilities: A facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including corporation yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.
18. Major Utility Facilities: Generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants, and similar facilities of public agencies or public utility firms having potentially significant impact upon surrounding uses.
19. Military Installations: Military facilities of the federal or state governments.
20. Park and Recreation Services: Publicly owner and operated parks, playgrounds, recreation areas or open spaces.
21. Postal Facilities: Postal services, including post offices, bulk mail processing or sorting centers, operated by the United States Postal Service.
22. Primary Educational Facilities: A public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools in the State of Iowa.
23. Public Assembly: Publicly owned and operated facilities for major public assembly, recreation, sports, amusement or entertainment, including civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.
24. Railroad Facilities: Railroad yards, equipment servicing facilities, and terminal facilities.
25. Religious Assembly: A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities.
26. Residential Care Services: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including over-night occupancy or care for extended periods of time.

27. Safety Services: Facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.
28. Sanitary Landfill: A disposal project where garbage, refuse, rubbish and other similar discarded solid or semisolid materials are buried between layers of earth.
29. Secondary Educational Facilities: A public, private, or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the State of Iowa.
30. Transportation Terminals: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus terminals, railroad depots, airport terminals, and public transit facilities.

ARTICLE #4 / DISTRICTS

Section 1: District Symbols. For the purpose and intent of this Ordinance; the City of Orange City, Iowa, is hereby divided into the following zoning district classifications and their respective official map symbols.

- A-1 Agricultural District
- R-1 Low Density Residential District
- R-2 Medium to High Density Residential District
- R-3 Manufactured Home Park District
- RS-1 Residential Suburban
- C-1 General Commercial District
- C-2 Highway Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District

(Editor's Note: Ordinance 744, Passed & Approved May 5, 2008, added RS-1 Residential Suburban to Section 1)

Section 2: Boundaries and Official Map. The boundaries of these districts are indicated and established as shown upon maps designated as the "Official Zoning Maps of the City of Orange City, Iowa," which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if fully described and set forth herein. The Official Zoning Maps shall be identified by the Mayor of Orange City and attested by the City Clerk under the following words:

"This is to certify that these are the Official Zoning Maps referred to in Article #4 of the City of Orange City Zoning Ordinance adopted on this _____ day of _____, 19__."

Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Maps shall be made by an Ordinance amending the "Zoning Ordinance of the City of Orange City, Iowa." The amending Ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said Ordinance shall, after adoption and publication, be recorded by the County Recorder as other Ordinances and a certified copy thereof be attached to the Official Zoning Maps. Such amendatory Ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Maps, together with amending Ordinances, shall be the final authority as to current zoning status of land and water areas, buildings, and other structures in the incorporated areas of the City.

In the event that the Official Zoning Maps are damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by Ordinance, adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such correction shall have the effect of amending the original Zoning Ordinance of the City of Orange City, Iowa or any subsequent amendment thereof.

Section 3: Interpretation of District Boundaries. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Maps, the following rules shall apply:

- 3.1 Boundaries indicated as approximately following the center lines of streets, highways, alleys or other public right-of-way shall be construed to follow such center lines.
- 3.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 3.3 Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
- 3.4 Boundaries indicated as approximately following municipal corporate boundaries shall be construed as following such boundaries.
- 3.5 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such center lines.
- 3.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 3.1 through 3.5 previously stated shall be so construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the maps.
- 3.7 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Maps, or in other circumstances not covered by subsections 3.1 through 3.6 previously stated, the Board of Adjustment shall interpret the district boundaries.

Section 4: Road or Public Way Vacated. Whenever any road, street, or other public way is vacated by the official action of the City Council, the zoning district(s) adjoining each side of such road or public way shall automatically extend to the center of such vacation and all area included in such vacation shall then and therefore be subject to all appropriate regulations of the extended district.

Section 5: Incorporation. All territory which may hereafter become part of the incorporated area of the City of Orange City, Iowa, that is regulated by this Ordinance, by the incorporation of any land, shall automatically be classified as lying and being within the (A-1) Agricultural District until such classification shall have been changed by amendment to this Ordinance.

Section 6: General Regulations. Except as herein provided:

- 6.1 No building or structure shall be erected or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this Ordinance for the district in which the building or land is located.
- 6.2 No lot existing at the time of adoption of this Ordinance shall be reduced in dimension or area below the minimum required by this Ordinance. No part of a yard or other open space,

or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space required under this Ordinance for another building, structure, or use.

- 6.3 Every building hereafter erected or structurally altered shall be located on a lot herein defined and in no case shall there be more than one (1) principal use structure on one (1) lot unless otherwise provided in this Ordinance.
- 6.4 No building shall be erected or shall be structurally altered to the extent specifically provided hereinafter, except in conformity with the off-street parking and loading regulations of this Ordinance.

ARTICLE #5 / AGRICULTURAL (A-1) DISTRICT

Section 1: Intent: The intent of the Agricultural District (A-1) is to preserve land best suited for agriculture from the encroachment of incompatible uses and to preserve in agricultural use land suited to eventual development in other uses until such time as streets utilities and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to non-agricultural use.

Section 2: Principal Permitted Uses. This district is intended to provide for areas of agricultural use which remain compatible with the surrounding residential or commercial uses.

Residential Type Uses

Single-Family Residential

Commercial Type Uses

Crop Production

Industrial Type Uses

None

Civic Type Uses

Game Refuges
Local Utility Services
Park & Recreation Services

Section 3: Special Exception Uses. The following uses and structures may be permitted in the "A-1" Agricultural District subject to review and approval of the Board of Adjustment.

Residential Type Uses

None

Commercial Type Uses

Horses for Personal Use

Industrial Type Uses

None

Civic Type Uses

Major Utility Services
Religious Assemblies

Section 4: Site Development Regulations. Each development in the (A-1) Agricultural District shall be subject to the following minimum regulations.

- | | |
|-----------------------------|---------------------------|
| 1. Lot Area: | 5 Acres |
| 2. Lot Width: | 300 feet |
| 3. Front Yard Setback: | 50 feet |
| 4. Rear Yard Setback: | 50 feet |
| 5. Side Yard Setback: | 20 feet |
| 6. Street Side Yard: | 35 feet |
| 7. Maximum Building Height: | 35 feet from street grade |

Section 5: Off-Street Parking. As required by Article 15 of this ordinance.

Section 6: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

ARTICLE #6 / LOW DENSITY RESIDENTIAL (R-1) DISTRICT

Section 1: Intent. This district is intended to provide for low density residential development compatible with the expected development of Northwestern College.

Section 2: Principal Permitted Uses. Unless otherwise provided in this Ordinance, only the following structures and uses shall be permitted in the "R-1" Single Family Residential District.

Residential Type Uses

Single Family
Duplex Residential

Commercial Type Uses

Home Occupations

Industrial Type Uses

None

Civic Type Uses

Day Care Services (Limited)
Local Utility Services
Park & Recreation Services
Religious Assembly
Primary Education Facilities
Secondary Education Facilities
Cemetery
Air Ambulance Services

(Editor's Note: Ordinance 708 approved by Council on November 19, 2001, amended Article 6 Low Density Residential, Section 2 Permitted Uses for Civic Type Uses by adding "Air Ambulance Services".)

Section 3: Special Exception Uses. The following uses and structures may be permitted in the "R-1" Low Density Residential District subject to review and approval of the Board of Adjustment.

Residential Type Uses

Two Family
Limited Multi-Family
Boarding and Lodging House

(Editor's Note: Ordinance 727 was approved by City Council on August 16, 2004 and added Boarding and Lodging House as permitted Use in R-1 Low Density Residential District)

Commercial Type Uses

Visitor Habitation:
Bed & Breakfast Inn

Industrial Type Uses

None

Civic Type Uses

College and University Facilities

Section 4: Site Development Regulations. Each development in the (R-1) Low Density Residential District shall be subject to the following minimum regulations.

1. Lot Area: 6,500 square feet-Single Family Dwelling
7,500 square feet-Two Family Dwelling
2. Lot Width: 70 feet
3. Front Yard Setback: 30 feet
4. Rear Yard Setback: 25 feet
5. Side Yard Setback: 8 feet
6. Street Side Yard: 15 feet
7. Maximum Building Height: 35 feet from street grade
8. Maximum Ground Coverage: 35 percent including accessory building.
9. Detached garages and accessory buildings shall be subject to all regulations as found in Article 13 of this ordinance.
10. Maximum of 2 accessory buildings per lot.

Editor's Note: Ordinance 746 was approved by City Council on September 2, 2008 and amended Section 4 by adding a new item 10.

Section 5: Site Development Regulations for Lots of Record. Any non-residential use development shall be subject to Section 4 Site Development Regulations. Each residential use development shall be subject to the following minimum regulations:

1. Lot Area: No minimum
2. Lot Width: 50 feet for a single family dwelling
60 feet for a two family dwelling
3. Side Yard Setback: 5 feet

4. Street Side Yard Setback: Equal to the side yard setback of the existing principal structure on the adjacent property or 15 feet, whichever is greater
5. Rear Yard Setback: 10 feet
6. Front Yard Setback: Equal to the front yard setback of the principal structure on either adjacent lot or 20 feet, whichever is greater
7. Maximum Building Height: 35 feet from street grade
8. Detached garages and accessory buildings shall be subject to all regulations in Article 13, except when located on an interior lot and placed at a distance greater than 50 feet from the front street lot line, in which instance the side yard setback shall be a minimum of 2 feet. On interior lots, such building shall not be less than two (2) feet from a rear lot line or alley line.
9. Maximum ground coverage of no more than 50% of the lot.
10. Maximum of 2 accessory buildings per lot.

Editor's Note: Ordinance 702 was approved by City Council on July 2, 2001 and amended Section 5, item 8.
Ordinance 746 was approved by City Council on September 2, 2008 and amended Section 5 by adding new items 9 & 10.

Section 6: Off-Street Parking. As required by Article 15 of this ordinance.

Section 7: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

ARTICLE #7 / MEDIUM TO HIGH DENSITY RESIDENTIAL (R-2) DISTRICT

Section 1: Intent. This district is designed to provide residential areas of higher density than is allowed in the "R-1" district.

Section 2: Principal Permitted Uses. Unless provided elsewhere in this Ordinance, only the following structures and uses shall be permitted in the "R-2" Medium to High Density Residential District.

Residential Type Uses

- Condominium
- Duplex
- Multiple Family
- Single Family
- Townhouse
- Two Family

Commercial Type Uses

- Visitor Habitation:
 - Bed & Breakfast Inn

Industrial Type Uses

- None

Civic Type Uses

- Administrative Services
- Club or Lodge
- Convalescent Services
- Cultural Services
- Day Care Services (Limited)
- Local Utility Services
- Park & Recreation Services
- Primary Educational Facilities
- Religious Assembly
- Residential Care Services
- Safety Services
- Secondary Educational Facilities

Section 3: Special Exception Uses. The following uses and structures may be permitted in the "R-2" Medium Density Residential District subject to review and approval of the Board of Adjustment.

Residential Type Uses

Group Residential
Boarding and Lodging House

(Editor's Note: Ordinance 727 was approved by City Council on August 16, 2004 and added Boarding and Lodging House as Special Exception Use on R-2 Medium Density Residential District)

Commercial Type Uses

Funeral Services
Medical Offices

Industrial Type Uses

None

Civic Type Uses

Day Care Services (General)
Major Utility Services
College and University Facilities

Section 4: Site Development Characteristics. Each development in the (R-2) Medium to High Density District shall be subject to the following minimum regulations.

1. Lot Area: 7,500 square feet, plus an additional 2,000 square feet for each dwelling unit in excess of one (1).
2. Lot Width: 150 feet
3. Front Yard Setback: 50 feet
4. Rear Yard Setback: 50 feet
5. Side Yard Setback: 25 feet
6. Street Side Yard: 25 feet
7. Maximum Building Height: 35 feet, 50 feet for churches and schools from street grade
8. Minimum Building Width: 22 feet
9. Detached garages and accessory buildings shall be subject to all regulations as found in Article 13.

Section 5: Off-Street Parking: As required by Article 15 of this Ordinance.

Section 6: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

ARTICLE #8 / MANUFACTURED HOME PARK (R-3) DISTRICT

Section 1: Intent. The intent of the Manufactured Home Park District is to regulate the location and placement of manufactured homes within the City of Orange City.

Section 2: Principal Permitted Uses. Within the "MH" Manufactured Home Park District, unless otherwise provided in this Ordinance, no building or land shall be used for other than one or more of the following purposes:

Residential Uses

Manufactured Home Residential

Civic Uses

Park and Recreation Services
Local Utility Services
Community Recreation
Day Care Services

Commercial Uses

None

Industrial Uses

None

Section 3: Permitted Accessory Uses And Structures: The following accessory uses and structures shall be permitted:

- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures permitted as exceptions;
- B. Private garage or carport;
- C. Private swimming pools and tennis courts;
- D. Private greenhouses not operated for commercial uses.

Section 4: Special Exception Uses: Within the "MH" Manufactured Home Park District, the following uses and structures may be permitted subject to review of the Board of Adjustment.

Residential Uses

None

Civic Uses

None

Commercial Uses

None

Industrial Uses

None

Section 5: Site Development Regulations: Each Manufactured Home Park shall be developed in accordance with the following regulations.

- A. Development Plan: The following information shall be shown on the development plan or submitted in writing with it;
1. The name of the proposed manufactured home park;
 2. Names, addresses and telephone numbers of the developer(s) or the developer's representative;
 3. Location of the Manufactured Home Park, giving the subdivision and lot numbers;
 4. A map of the entire area scheduled for development, if the proposed development is a portion of a larger holding intended for subsequent development;
 5. A location map showing the relationship of the proposed development and the adjacent tracts or parcels;
 6. The present land uses and the existing zoning of the proposed development and the adjacent tracts or parcels;
 7. Interior streets, streets, street names, rights-of-way and roadway widths;
 8. All lot lines and open spaces with dimensions shown;
 9. Delineation of all improvements required in this section.

B. Permitted Accessory Uses and Requirements Thereof:

1. Accessory buildings or structures under park management supervision shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park residents only. No accessory building or structure shall exceed twenty-five (25) feet in height; and shall meet requirements of the applicable codes and ordinances;
2. A manufactured home may be displayed and offered for sale, provided that the manufactured home is situated on a permanent pad within the manufactured home park;
3. One (1) identification sign, approved in conjunction with the final site plan approval of the manufactured home park. In no case shall such sign be larger than sixty (60) square feet in surface area nor have any moving parts nor stand higher than ten (10) feet from the ground to the top of the sign. Such sign shall be no closer to the public right-of-way than thirty (30) feet;
4. No more than one (1) entry or exit sign at each access drive onto the public right-of-way, approved in conjunction with the final site plan approval of the manufactured home park. In no case shall the sign be larger than two (2) square feet in surface area, nor have any moving parts, nor stand higher than five (5) feet from the ground to the top of the sign.
5. No more than one (1) local street sign at a local intersection of such park which identifies the local street by name, the sign approved in conjunction with the final site plan approval for the manufactured home park. In no case shall the sign be larger than one (1) square foot in surface area per local street name, nor stand higher than seven (7) feet from the ground to the top of the sign.

C. Required Development Standards:

1. The land area of a manufactured home park shall not be less than 80,000 square feet;
2. Manufactured home sites shall be at least 4,500 square feet in area;
3. Each manufactured home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for attachment to appropriate external systems and so attached;
4. Each manufactured home site shall have side yards with each yard having a width of not less than ten (10) feet;

5. Each manufactured home site shall have front and rear yards with the rear yard not less than twenty-five (25) feet in depth and the front yard of not less than thirty-five (35) feet. Corner manufactured home sites shall have front yard setbacks on each street frontage;
6. For the purpose of this section, yard width shall be determined by measurement from the manufactured home face (side) to its manufactured home site boundary from which every point shall not be less than the minimum width herein provided. The rear yard shall be the yard opposite and having the farthest distance as measured from the street or public way;
7. From all lots, a minimum distance of thirty-five (35) feet shall be maintained from the boundary of the manufactured home park;
8. A manufactured home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy the space required by yard setback dimensions;
9. Each manufactured home site shall be provided with a stand consisting of reinforced concrete runways not less than four (4) inches thick and not less than the length of the manufactured home that will use the site. These runways will be so constructed, graded and placed to be durable and adequate for support of the maximum anticipated load during all seasons;
10. Each manufactured home shall be anchored to the ground as provided in Chapters 103A.30-103A.33, Code of Iowa;
11. Accessory structures may be no closer to the side lot line than five (5) feet.
12. A permanent type material and construction compatible with the design and color of the manufactured home shall be installed to enclose the open space between the bottom of the manufactured home floor and the grade level of the manufactured home stand, and shall be constructed to provide substantial resistance to heavy winds. Skirting shall be maintained in an attractive manner consistent with the exterior of the manufactured home and to preserve the appearance of the manufactured home park.

Sufficient screened ventilating areas shall be installed in the skirting to supply the combustion requirements of heating units and ventilating of the manufactured home. Provisions shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the manufactured home, and for repair of sewer and water riser connections;

13. All manufactured homes within such park shall be suitably connected to common sewer and water services provided at each manufactured home site; All sanitary sewer facilities, including plumbing connections to each manufactured home site, shall be constructed so that all facilities and lines are protected from freezing, from bumping or from creating any type of

nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users of the park at peak periods. Running water from a tested and approved supply, designed for a minimum flow of two hundred (200) gallons per day per manufactured home site shall be piped to each manufactured home. All sanitary sewer and water facilities shall conform to minimum State and County Health regulations and other applicable sections of the Orange City Code. Storm drainage facilities shall be so constructed as to protect those who reside in the manufactured home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park;

14. All electric, telephone, and other lines from supply poles outside the park or other sources to each manufactured home shall be placed underground;
15. Any fuel storage shall be in accordance with applicable Federal, State and local regulations;
16. All roads, driveways and motor vehicle parking spaces shall be paved and constructed so as to handle anticipated peak loads, and adequately drained and lighted for safety and ease of movement of pedestrians and vehicles.;
17. All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public and private streets or roads to each manufactured home site. Alignment and gradient shall be properly adopted to topography. Access to manufactured home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have minimum road pavement width of forty-one feet (41') where parking is permitted on both sides, or a minimum road pavement width of thirty-one feet (31') where parking is limited to one side. When primary entrance road is more than one hundred feet (100') long and does not provide access to abutting manufactured home lots within such distance, the minimum road pavement width may be twenty-four feet (24'), with parking limited to one side; thirty-one feet (31'), with parking permitted on both sides forty-one feet (41').
18. Required standards for roadways, parking, and traffic shall be as follows:

VEHICLE PARKING	TRAFFIC USE	MIN. PAVEMENT WIDTH
No Parking Allowed	2-Way Road	24 feet
Parallel Parking (1 Side Only)	1-Way Road	31 feet
No Parking Allowed	1-Way Road	24 feet
Parallel Parking (2 Sides)	2-Way Road	41 Feet

19. If any dead-end place or court is more than two hundred-fifty feet (250') in length, it shall terminate in an open space, preferably circular have a minimum dimension of one hundred feet (100'). Except in unusual instances, no dead-end street or place shall exceed six hundred feet (600') in length.
20. All streets of a manufactured home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the City of Orange City and by any other governmental agency exercising control over such streets or roads.
21. All parks shall be furnished with lighting units spaced and equipped with approved fixtures, placed at mounting heights that will provide the following average maintained levels of illumination for safe movement of pedestrians and vehicles at night; all parts of the park street system 0.6 foot-candle, with a minimum of 2.5 foot-candle; potentially hazardous locations, such as major street intersections and steps or stepped ramps, individually illuminated with a minimum of 0.4 foot-candle.
22. All streets intended for general public use shall be dedicated as a public right-of-way and subject to such improvements as may be required by the City of Orange City.
23. All streets intended primarily for use of park occupants, guests and services shall be owned and maintained by the manufactured home park owner. Private streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete to provide for drainage and shall be constructed to specifications approved by the City of Orange City. Street surfaces shall be maintained free of cracks, holes and other hazards.
24. Grades of all streets shall be sufficient to insure adequate surface drainage, and shall have prior approval of the City of Orange City before commencing with construction.

25. Streets shall be at approximately right angles within fifty feet (50') of an intersection. A distance of at least one hundred feet (100') shall be maintained between center line of off-set intersecting streets unless specifically approved by the City of Orange City. Intersections of more than two streets at one point shall be avoided.
26. The limits of each manufactured home site shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finished lot grade.

Location of lot limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is not to be construed as permitting lots of a lesser size than the required minimum or permitting lesser yard or setback dimensions than set forth elsewhere in this Chapter.

27. No manufactured home shall be connected to water, sewer or electrical service unless the manufactured home complies with the standards and requirements prescribed by "Standards for Mobile Homes, USAS A119.1, 1963" and amendments thereto, published by the United States of America Standards Institute as applicable, which said publication is hereby adopted and by reference made a part of this Chapter, a copy of which is and shall remain on file in the office of the Zoning Officer. Compliance with these standards shall be determined by the Zoning Officer. A certificate, if issued by the manufacturer of the manufactured home, shall be permanently affixed on a readily visible location on the exterior of the manufactured home as prima facia evidence of such compliance.
28. The maximum ground coverage of the manufactured home park shall be seventy percent (70%) with the remaining thirty percent (30%) reserved for landscaping.

ARTICLE #9 / GENERAL COMMERCIAL (C-1) DISTRICT

Section 1: Intent. The intent of the General Commercial District is to provide for a commercial area to serve the general shopping needs of the trade area and to permit uses which will strengthen the central business area as the center of trade, service, governmental and cultural activities.

Section 2: Principal Permitted Uses. Only the following principal uses and structures shall be permitted in "C-1" General Commercial District.

Residential Type Uses

None

Commercial Type Uses

Administrative Business Offices
Building Maintenance Services
Business Support Services
Commercial Recreation:
 Indoor Entertainment
 Indoor Sports & Recreation
Communication Services
Consumer Repair Services
Financial Services
Food Sales
General Retail Sales
Laundry Services
Liquor Sales
Medical Offices
Personal Improvement Services
Personal Services
Professional Office
Restaurant (Convenience & General)
Tavern
Visitor Habitation:
 Hotel/Motel
 Bed & Breakfast Inn

Industrial Type Uses

Custom Manufacturing

Civic Type Uses

Administrative Services
Club or Lodge
Community Recreation
Cultural Services
Local Utility Services
Park & Recreation Services
Postal Facilities
Public Assembly
Safety Services
Hospital Services
Detention Facilities
Governmental Facilities

Section 3: Special Exception Uses. The following uses and structures may be permitted in the "C-1" General Commercial District subject to review and approval of the Board of Adjustment.

Residential Type Uses

All Residential (provided that such uses be prohibited from occupying the first ground floor or basement of any structure).

Single Family Residential, (with no more than 50% of the main floor allowed for use as residential and the property must abut a Residential Zoning District on at least one side, the front or back).

(Editor's Note: Ordinance 743, passed and approved on May 5, 2008 amended Section 3, Special Exception Uses, Residential Type Uses. By adding Single Family Residential provision)

Editor's Note: Ordinance 745, passed & approved on May 5, 2008, repealed Multiple Family Residential and replaced with new subsection "All Residential".)

Commercial Type Uses

Agricultural Sales & Services
Commercial Recreation:
Outdoor Sports & Recreation
Construction Sales & Services
Funeral Services
Research Services

Industrial Type Uses

Warehousing & Distribution:
Limited Warehousing & Distribution

Civic Type Uses

Day Care Services (General)
Major Utility Services
Religious Assembly

Section 4: Site Development Regulations. Each development in the (C) Commercial District shall be subject to the following minimum regulations.

- | | |
|------------------------|---|
| 1. Lot Area: | No minimum |
| 2. Lot Width: | No minimum |
| 3. Front Yard Setback: | No minimum |
| 4. Rear Yard Setback: | No minimum rear yard is required unless there is no dedicated alley on the rear lot line in which case a rear yard of sixteen (16) feet shall be provided. |
| 5. Side Yard Setback: | No minimum side yard shall be required except when it abuts a lot zoned for residential purposes in which case a side yard of eight (8) feet shall be required. |
| 6. Street Side Yard: | No minimum |
| 7. Maximum Height: | 35 feet from street grade |

Section 5: Off-Street Parking. As required by Article 15 of this Ordinance.

Section 6: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

ARTICLE #10 / HIGHWAY COMMERCIAL (C-2) DISTRICT

Section 1: Intent The intent of the Highway Commercial District is to provide for areas adjacent to major traffic arteries where commercial uses catering to the motoring public are permitted.

Section 2: Principal Permitted Uses. Only the following principal uses and structures shall be permitted in the "C-2" Highway Commercial District.

Residential Type Uses

None

Commercial Type Uses

Automotive Washing
Service Station
Administrative and Business Office
Agricultural Sales and Services
Automotive Rentals
Commercial Off-Street Parking
Automotive Sales
Equipment Sales
Automotive Repair Services
Equipment Repair Services
Vehicle Storage
Building Maintenance Storage
Business Support Services
Business or Trade School
Cocktail Lounge
Indoor Sports and Recreation
Indoor Entertainment
Communication Services
Construction Sales and Services
Consumer Repair Services
Convenience Storage
Convenience Store
Financial Services
Lumber Yard
Drive-In Establishment, Including A Bank
Food Sales
Funeral Services
General Retail Sales
Health Services
Laundry Services
Personal Improvement Services
Personal Services

Pet Services
Professional Offices
Restaurant (Convenience)
Restaurant (General)
Hotel/Motel
Mobile Home and Recreational Vehicle Sales
Veterinary Services

Industrial Type Uses

None

Civic Type Uses

Administrative Services
Club or Lodge
Community Recreation
College and University Facility
Cultural Services
Day Care Services (Limited)
Day Care Services (General)
Guidance Services
Hospital Services
Local Utility Services
Maintenance and Service Facility
Park and Recreation Services
Postal Facility
Public Assembly
Residential Care Facility
Safety Services

Section 3: Special Exception Uses. The following uses and structures shall be permitted in the "C-2" Highway Commercial District subject to review and approval of the Board of Adjustment.

Residential Type Uses

Multiple Family Residential
Condominium Residential

Commercial Type Uses

Outdoor Sports and Recreation
Outdoor Entertainment
Radio and Television Towers
Churches
Mobile Home Parks
Kennels
Liquor Sales
Research Services

Industrial Type Uses

Custom Manufacturing
Limited Warehousing and Distribution
General Warehousing and Distribution

Civic Type Uses

Cemetery
Convalescent Services
Detention Facility
Major Utility Facility
Military Installation
Primary Educational Facility
Railroad Services
Religious Assembly
Secondary Educational Facility
Transportation Terminals

Section 4: Site Development Regulations. Each development in the (C-2) Highway Commercial District shall be subject to the following minimum regulations.

- | | |
|----------------------------|---|
| 1. Lot Area: | 10,000 square feet |
| 2. Lot Width: | 80 feet |
| 3. Front Yard Setback: | 50 feet |
| 4. Rear Yard Setback: | 10 feet |
| 5. Side Yard Setback: | 10 feet (In the case that Highway 10 is the side yard, setback shall be 50 feet.) |
| 6. Street Side Yard: | 15 feet |
| 7. Maximum Height: | 35 feet from street grade |
| 8. Minimum Building Width: | 22 feet |

Section 5: Off-Street Parking. As required by Article 15 of this Ordinance.

Section 6: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

ARTICLE #11 / LIGHT INDUSTRIAL (I-1) DISTRICT

Section 1: Intent. The intent of the Light Industrial District is to provide for light industrial uses in a planned industrial development.

Section 2: Principal Permitted Uses. Within the Light Industrial District, unless otherwise provided in this ordinance, no building or land shall be used for other than one or more of the following uses.

Residential Type Uses

None

Commercial Type Uses

Agricultural Sales & Services
Automotive & Equipment Services:
 Automotive Repair Services
 Equipment Repair Services
 Vehicle Storage
Building Maintenance Services
Business Support Services
Consumer Repair Services
Construction Sales & Services
Convenience Storage
Kennels
Veterinary Services, not including Animal Hospitals
Laundry Services
Research Services
Service Station
Transpiration Terminals

Industrial Type Uses

Custom Manufacturing
Light Manufacturing
Warehousing & Distribution:
 Limited Warehousing & Distribution
 General Warehousing & Distribution

Civic Type Uses

Local Utility Services
Maintenance & Service Facilities
Railroad Facilities

Section 3: Special Exception Uses. The following uses and structures shall be permitted in the "L-1" Light Industrial District subject to review and approval of the Board of Adjustment.

Residential Type Uses

None

Commercial Type Uses

Automotive & Equipment Services:
Equipment Sales

Industrial Type Uses

Scrap & Salvage

Civic Type Uses

Major Utility Services

Section 4: Site Development Regulations. Each development in the General Industrial (GI) District shall be subject to the following minimum regulations.

1. Lot Area: 10,000 square feet.
2. Lot Width: 80 feet.
3. Front Yard Setback: 50 feet.
4. Side Yard Setback: No minimum side yard is required except when it abuts a lot used for residential purposes in which case a side yard of five (5) feet shall be required.
5. Rear Yard Setback: No minimum rear yard is required unless there is no dedicated alley of the rear lot line in which case a side yard of sixteen (16) feet shall be provided.
6. Street Side Yard: 15 feet.
7. Maximum Height: No building shall exceed a height of thirty-five (35) feet from street grade unless otherwise provided.

Section 5: Zoning Permits. As required by Article 15 of the Ordinance.

Section 6: Off-Street Parking. As required by Article 19 of this Ordinance.

ARTICLE #12 / HEAVY INDUSTRIAL (I-2) DISTRICT

Section 1: Intent. The intent of the Heavy Industrial District is to provide for uses and structures not allowed in the other districts.

Section 2: Principal Permitted Uses. Within the Heavy Industrial District, unless otherwise provided in this ordinance, no building or land shall be used for other than one or more of the following uses.

Residential Type Uses

None

Commercial Type Uses

Agricultural Sales & Services
Automotive & Equipment Services:
 Automotive Repair Services
 Equipment Repair Services
 Vehicle Storage
Building Maintenance Services
Business Support Services
Consumer Repair Services
Construction Sales & Services
Convenience Storage
Kennels
Veterinary Services, not including Animal Hospitals
Laundry Services
Research Services
Service Station
Transportation Terminals

Industrial Type Uses

Basic Industry
Custom Manufacturing
Light Manufacturing
Scrap & Salvage
Stockyards
Warehousing & Distribution:
 Limited Warehousing & Distribution
 General Warehousing & Distribution

Civic Type Uses

Local Utility Services
Maintenance & Service Facilities
Railroad Facilities

Section 3: Special Exception Uses. The following uses and structures shall be permitted in the "L-1" Light Industrial District subject to review and approval of the Board of Adjustment.

Residential Type Uses

None

Commercial Type Uses

Automotive & Equipment Services:
Equipment Sales

Industrial Type Uses

None

Civic Type Uses

Major Utility Services

Section 4: Site Development Regulations. Each development in the General Industrial (GI) District shall be subject to the following minimum regulations.

1. Lot Area: 10,000 square feet.
2. Lot Width: 80 feet.
3. Front Yard Setback: 50 feet.
4. Side Yard Setback: No minimum side yard is required except when it abuts a lot used for residential purposes in which case a side yard of five (5) feet shall be required.
5. Rear Yard Setback: No minimum rear yard is required unless there is no dedicated alley of the rear lot line in which case a side yard of sixteen (16) feet shall be provided.
6. Street Side Yard: 15 feet.
7. Maximum Height: No building shall exceed a height fifty (50) feet from street grade unless otherwise provided.

Section 5: Zoning Permits. As required by Article 15 of the Ordinance.

Section 6: Off-Street Parking. As required by Article 19 of this Ordinance.

ARTICLE # 12A RS-1, RESIDENTIAL SUBURBAN DISTRICT

Section 1: Intent The intent of the RS-1, Residential Suburban District is to provide for a transitional area between agricultural land use and the more intensive urban residential land use. The RS-1 District is intended for uses of land contiguous to or in close proximity to developed areas.

Section 2: Principal Permitted Uses Unless otherwise provided in this Ordinance, only the following structures and uses shall be permitted in the RS-1, Residential Suburban District.

Residential Type Uses

- Single Family
- Duplex Residential
- Residential Animal Husbandry for Recreational Purposes

Commercial Type Uses

- Home Occupations
- Seasonal Sales of horticultural products grown on the premises
- Crop Production

Industrial Type Uses

- None

Civic Type Uses

- Park and Recreation Services
- Local Utility Services
- Religious Assembly
- Cemetery

Section 3: Special Exception Uses. The following uses and structures may be permitted in the RS-1, Residential Suburban District subject to review and approval of the Board of Adjustment.

Residential Type Uses

- Two Family
- Limited Multi-Family
- Boarding and Lodging House

Commercial Type Uses

- Visitor Habitation:
 - Bed & Breakfast Inn
- Riding Stables

Industrial Type Uses

- None

Civic Type Uses

- Major Utility Services

Primary or Secondary Education Services
Safety Services
Day Care Services(Limited)
Game Refuge

Section 4: Site Development Regulations. Each development in the RS-1, Residential Suburban District shall be subject to the following minimum regulations.

1. Lot Area 1 Acre
2. Lot Width 150 feet
3. Front Yard Setback 50 feet
4. Rear Yard Setback 50 feet
5. Side Yard Setback 20 feet
6. Street Side Yard Setback 35 feet
7. Maximum Building Height 35 feet from street grade
8. Maximum Ground Coverage 35 percent including accessory buildings and structures
9. Detached garages, accessory buildings, and other structures shall be subject to the following minimum regulations.
 - A. Detached garages, accessory buildings, and other structures may occupy portions of the required rear yard setback area, but shall not be placed closer than 10 feet to any lot line.
 - B. Detached garages, accessory buildings, and other structures shall not occupy any portion of the required front, side, or street side yard setback areas.
 - C. No detached garage, accessory building, or other structure shall exceed 35 feet in height from street grade.
10. Residential Animal Husbandry for Recreational Purposes
 - A. Animal densities greater than 15 animals per acre of sheep, goats, and small or miniature animals shall not be allowed in the RS-1, District. Animal densities greater than 5 animals per acre of large animals such as cattle, horses, and swine shall not be allowed in the RS-1 District. Property owners shall be responsible for proper manure disposal practices to minimize flies, odors, and other health or nuisance concerns.
 - B. The maximum number of animals per property shall not exceed 100.
 - C. All animals and personal “pets” shall be restrained by means of chains, leashes, cages, buildings, fences, and similar restraints. Animals shall not be allowed to roam free of restraint, so as to cause problems for neighboring property owners.
 - D. Fences, pens, corrals and similar means of animal restraint shall not be allowed to occupy the required front yard or street side yard setback areas.

- E. Fences, pens, corrals and similar means of animal restraint shall be allowed to occupy the required side yard or rear yard setback areas.
- F. In accordance with United States Environmental Protection Agency regulations concerning the proper disposal of dead animals, limited open burning is permitted in the RS-1 District. This open burning shall be used exclusively to incinerate animal carcasses which licensed rendering firms will not collect. These animal carcasses generally consist of sheep, goats, and small pet animals. Opening burning of leaves, yard waste, garbage and other items is not allowed in the RS-1 District.

Section 5: Off-Street Parking. As required by Article 15 of this Ordinance.

Section 6: Zoning Permits Required. Zoning permits shall be required in accordance with the provisions of Article 19 of this Ordinance.

(Editor's Note: Ordinance 744, Passed & Approved May 5, 2008, added Article 12 A RS-1 Residential Suburban District.)

ARTICLE #13 / ADDITIONAL AREA AND HEIGHT REGULATIONS

Section 1: INTENT. The regulations set forth in this Article qualify, supplement or modify the area and height regulations set forth elsewhere in this Ordinance.

Section 2: YARD AND AREA REGULATIONS.

- A. Through Lots: Buildings on through lots, extending from street to street shall provide the required front yard on both streets.
- B. Visibility at Intersections: On a corner lot in any district, except the (C) Commercial District, no fence, wall, hedge, tree or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed, by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
- C. Accessory Buildings: Accessory buildings and uses customarily incidental to that of the principal (main) building may be erected or established upon any lot or tract of land, provided they comply with the following:
 - 1. No accessory buildings shall be erected in any front yard or required side yard and no accessory building(s) shall be nearer to a lot line(s) than would be required for the building wall of the main building on the same lot,
 - 2. No detached accessory building in an "R" residential district shall be erected within five (5) feet of any principal (main) buildings or any property lines, and shall not occupy more than thirty (30) percent of the required rear yard,
 - 3. No accessory building shall be used for dwelling purposes,
 - 4. No detached accessory buildings shall exceed the following heights:
 - a. "R" Districts - 20 feet.
 - b. "C" Districts - 24 feet.
 - c. "A" District - 20 feet where the principal use is for residential purposes.
 - 5. An open unenclosed deck may project into a front yard for a distance not exceeding eight feet (8').

- D. Hedges and Fences: Fences and hedges in residential districts within three (3) feet of lot lines shall not exceed four (4) feet in height in any required front yard, and shall not exceed seven (7) feet in height in any required side or rear yard, subject to further restrictions of Section 2 above. Fences in excess of seven (7) feet will be allowed in the cases of tennis courts and swimming pools, subject to further restrictions of Section 2 above.

Fences shall not be closer than six (6) inches to any property line and hedges shall not be planted closer than two and one-half (2½) feet to any property line. Except that they may be placed on the property line by written mutual agreement of both adjacent property owners.

- E. Buildings to Have Access: Every building hereafter erected or structurally altered, shall be on a lot or parcel having a frontage on a public street or road, or shall be on a lot or parcel having deeded access to a public street or road.
- F. Use of Public Right-of-Way: No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structure for storage or display purposes, or to provide any parking or loading space required by this Ordinance.
- G. Temporary Buildings: Temporary buildings associated with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.

Section 3: HEIGHT REQUIREMENTS. Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, ornamental towers and spires, radio or television or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted regulations of the City of Orange City, provided however, that no structure including the above shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of the flying public.

ARTICLE #14 / ADDITIONAL USE REGULATIONS

Section 1: ADDITIONAL USE REGULATIONS. The regulations set forth in this Article qualify or supplement the use regulations set forth elsewhere in this Ordinance.

Section 2: SERVICE STATIONS / CONVENIENCE STORES. Gasoline service stations shall be subject to the following regulations:

- A. Location of Ingress and Egress: No gasoline service station or automobile repair shop shall have an entrance or exit for vehicles within one hundred-fifty (150) feet as measured along the public street in which there exists a K-12 school, public playground, church, chapel, convent, hospital, public library or the property line of any residentially zoned district.
- B. Location of Oil Drainage Pits and Hydraulic Lifts: All oil drainage pits and hydraulic lifts shall be located within an enclosed structure.
- C. Gasoline Dispensing Pumps: Gasoline service stations and convenience stores shall have their gasoline pumps, including other service facilities, set back at least twenty-five (25) feet from any public right-of-way. When located in commercial districts, gasoline dispensing pumps shall not be considered as accessory structures.

Section 3: HOME OCCUPATIONS. An accessory use conducted entirely within a dwelling unit, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. Home occupations accessory to the residential use shall be subject to the following limitations:

- A. The residential character of the building must be maintained.
- B. Only one unrelated person living outside of the residence and members of the immediate family may be employed in the home occupation with the exception of contracting businesses that are managed out of the home and work conducted off the premises. Unrelated persons are allowed in this case.
- C. In cases where a contracting business is managed in the home occupation with work performed off-premises, there are no limitations on employees who work at the off-site locations.
- D. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term. The occupation must be conducted entirely within the dwelling which is a bona fide residence of the practitioners, or within an attached garage.

- E. The use must not infringe upon the right of neighboring residents to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was created and primarily intended.
- F. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit.
- G. Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- H. May have no more than one, flush mounted, non-illuminated sign not exceeding three (3) square feet in size.
- I. The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential traffic.
- J. No more than thirty (30) percent of the total floor area of the principal building may be utilized by the home occupation. However, this regulation shall not apply to day care facilities.
- K. Music lessons, when operated as a home occupation shall be limited to two (2) students at any one time. Dance lessons, when operated as a home occupation shall be limited to no more than four (4) students at any one time.
- L. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, salvage yards, restaurants, rental outlet, vehicular repair shops or massage parlors. Day care for more than six (6) children shall not be allowed as a home occupation.
- M. Home occupations permits are required and are to be renewed by January 1 of each year.
- N. Annual permits will be at a cost of \$12.00.

ARTICLE #15 / OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 1: OFF-STREET PARKING. Except in the "C" Commercial District, at the time of construction, alteration, moving into, enlargement of a structure or building, or change in the use of the land, minimum off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

- | | | |
|----|--|--|
| A. | Single Family Residential: | 1 Space. |
| B. | Duplex Residential: | 3 Spaces. |
| C. | Multi- Family Residential: | 1.5 Spaces per dwelling unit. |
| D. | Condominium Residential: | 1.5 Spaces per dwelling unit. |
| E. | Townhouse Residential: | 1.5 Spaces per dwelling unit. |
| F. | Mobile Home Residential: | 1 Space per mobile home. |
| G. | Hotel / Motel: | 1 Space per room. |
| H. | Resorts: | 1 Space per rental unit or room. |
| I. | Hospital: | 1 Space for each four hospital beds, plus 1 space for each two employees on the major shift. |
| J. | Public Assembly: | 1 Space for each six seats. |
| K. | Bowling Alleys: | 5 Spaces per alley. |
| L. | Skating Rinks / Dance Halls: | 1 Space per 300 feet of gross floor area. |
| M. | General Retail Sales and Professional Offices: | 1 Space per 300 feet of gross floor area. |
| N. | Restaurants: | 1 Space for each four seats, plus 1 space for each two employees. |
| O. | Cocktail Lounges: | 1 Space for each two seats. |
| P. | Primary Educational Facility: | 1 Space per classroom or 1 space for every six seats in the largest facility |

for public assembly, whichever is greater.

- | | | |
|----|---------------------------------|---|
| Q. | Secondary Educational Facility: | 1 Space per ten students enrolled or 1 space for every six seats in the largest facility for public assembly, whichever is greater. |
| R. | Industry: | 1 Space for every two employees on the largest shift. |
| S. | Convalescent Services: | 1 Space for each eight beds, plus 1 space for each 3 employees on the largest shift. |
| T. | Group Residential: | 1 Space for each two bedrooms. |

Section 2: COMPUTATION OF SPACES.

- A. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply, as determined by the Zoning Administrative Officer.
- B. Where fractional spaces occur, the parking spaces required shall be construed to be the nearest whole number.
- C. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
- D. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses if computed separately.

Section 3: LOCATION AND TYPE OF PARKING SPACES. All parking spaces required herein shall be located on the same lot as the building or use served, except that where an increase in the number of spaces is required due to a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained no more than three hundred feet (300') from an institutional or other non-residential building being served.

- A. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution, and shall be filed with the application for a building permit.
- B. Off-street parking spaces may be located within the required front yard in any "C" or "LI" district, however, no off-street parking shall be permitted in the required front yard in any "R" district except upon a driveway providing access to a garage, carport or parking area for the dwelling.
- C. All required off-street parking areas in any "C" or "LI" district of more than five spaces shall be surfaced with either asphalt, concrete or gravel so as to provide a durable surface. They shall be graded and drained to dispose of all surface water accumulation within the lot, and shall be arranged to provided for orderly and safe loading or unloading.
- D. Any lighting used to illuminate any off-street parking areas shall be arranged to reflect light away from adjacent lots and uses of land.
- E. No part of any parking space shall be closer than five feet from any street right-of-way. In case the parking lot adjoins an "R" district, is shall be at least five feet from the property line and shall be effectively screened immediately by the use of a fence, hedge, other similar methods, or by City approval.

Section 4: OFF-STREET LOADING SPACES REQUIRED. In any district, in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space plus one (1) additional loading space for each twenty thousand (20,000) square feet or fraction thereof.

- A. Each loading space shall be no less than ten feet (10') in width and twenty-five feet (25') in length.
- B. Such space may occupy all or any part of any required yard or open space, except where adjoining a residential district. If the loading space is adjacent to a residential district, it shall be set back at least ten feet (10') from said district and be effectively screened from view.

ARTICLE #16 / SIGN REGULATIONS

Section 1: PURPOSE. This article is established to protect and promote health, safety, general welfare and order within the City of Orange City through the establishment of comprehensive and uniform standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or private properties. The provisions of this article are intended to encourage opportunity for effective, aesthetically compatible, and orderly communications by reducing confusion and hazards resulting from unnecessary or indiscriminate use of communications facilities. Hereafter no sign shall be erected, constructed, altered, or modified except as regulated by the provisions of this article.

Section 2: DEFINITIONS. The following terms, for the purposes of this article have the meaning stated herein:

- A. Address Sign: A sign communicating street address only, whether written or in numerical form.
- B. Animated Sign: Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation.
- C. Billboard Sign: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- D. Construction Sign: A temporary sign erected on the premises on which construction is actively taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project. One sign shall be permitted for each major street the project abuts.
- E. Joint Identification Sign: A free-standing sign which identifies a subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center consisting of three (3) or more separate business concerns, an industrial area, an office complex consisting of three (3) or more structures or any combination of the above.
- F. Campaign Sign: A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted upon at a governmental election.
- G. Directional Sign: A sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.

- H. Flashing Sign: Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information, shall not be considered a flashing sign.
- I. Free-Standing Sign: Any immovable sign not affixed to a building.
- J. Governmental Sign: A sign which is erected by a governmental unit.
- K. Information Sign: Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.
- L. Non-conforming Sign: A sign which lawfully existed at the time of the passage of this Ordinance or amendments thereto but which does not conform to the regulation of this ordinance.
- M. Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
- N. Real Estate Sign: A business sign placed upon a property advertising that particular property for sale, for lease or for rent.
- O. Roof Sign: A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.
- P. Sign: The use of any words, numerals, pictures, figures, devices or trademarks by which anything is made known, such as are used to show an individual, firm, profession or business, and are visible to the general public.
- Q. Sign Area: In the case of messages, figures or symbols attached directly to a part of a building, that area which is included in the smallest connecting geometric figures which can be made to circumscribe the message, figure or symbol displayed thereon.

In all other cases, that entire area of the surface which bears the advertisement, excluding any sign structure.

In any case, only changeable copy areas of marquee or canopies shall be considered in determining the total sign area.

- R. Sign Structure: The supports, uprights, bracing and framework for a sign excluding sign area.
- S. Temporary Sign: Any sign which is erected or displayed for a specified period of time. The temporary use of portable or moveable signs, search lights, banners, pennants, and similar devices shall be allowed in excess of and in addition to the

sign limitations of this Article for continuous periods of ten (10) consecutive days. No business proprietor shall be allowed more than three such periods in any calendar year.

- T. Wall Sign: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than 12 inches for such building or structure.

Section 3: REQUIREMENTS. Billboards and signs in conjunction with principal permitted uses are allowed subject to the following regulations. Only signs specifically permitted shall be allowed in the various districts.

A. C-1 General Commercial District.

1. Only one permanent type sign intended to be read from off the premises will be allowed for each principal use;
2. Maximum height of sign shall not exceed thirty-five (35) feet from street grade.
3. The following sign types are permitted:
 - a. Real Estate Signs (Sign area not to exceed 24 square feet);
 - b. Government Signs;
 - c. Address Signs (Sign area not to exceed 1 square foot);
 - d. Campaign Signs (Sign area not to exceed 8 square feet);
 - e. Informational Signs (Sign area not to exceed 2 square feet);
 - f. Directional Signs;
 - g. Joint Identification Signs.
 - h. Wall Signs (Sign area not to exceed 1 square foot for each linear foot of building frontage);
 - i. Projecting Signs (Sign area not to exceed 9 square feet);
 - j. Roof Signs (Sign area not to exceed 1 square foot for each linear foot of building frontage.
 - k. Temporary Signs (Sign area not to exceed 9 square feet);
 - l. Construction Sign (Sign area not to exceed 24 square feet).

B. Highway Commercial.

1. Free-standing signs must not impair sight distance or create a traffic hazard;
2. Free-standing signs must be located no more than 150 feet from the business, product or service advertised on said sign;
3. Only two permanent type signs will be permitted per development;

4. Maximum height of sign shall not exceed thirty-five (35) feet from street grade.
5. The following sign types are permitted:
 - a. Address signs (Sign area not to exceed 1 square foot);
 - b. Real Estate Signs (Sign area not to exceed 24 square feet);
 - c. Government Signs;
 - d. Campaign Signs (Sign area not to exceed 8 square feet);
 - e. Directional Signs;
 - f. Informational Signs (Sign area not to exceed 2 square feet);
 - g. Joint Identification Signs (Sign area not to exceed 12 square feet).
 - h. Wall Signs (Sign area not to exceed 1 square foot for each linear foot of building frontage)
 - i. Projecting Signs (Sign area not to exceed 16 square feet);
 - j. Free-Standing Signs (Sign area not to exceed 100 square feet).
 - k. Temporary Signs (Sign area not to exceed 9 square feet);
 - l. Construction Signs (Sign area not to exceed 24 square feet).

C. Residential Districts.

1. Maximum height of sign shall not exceed thirty-five (35) feet from street grade.
2. The following sign types are permitted:
 - a. Address signs (Sign area not to exceed 1 square foot);
 - b. Real Estate Signs (Sign area not to exceed 6 square feet);
 - c. Government Signs;
 - d. Campaign Signs (Sign area not to exceed 6 square feet);
 - e. Joint Identification Signs (Sign area not to exceed 12 square feet);
 - f. Construction Signs (Sign area not to exceed 9 square feet).

D. Agricultural/Conservation and Limited Industrial Districts.

1. Free-standing signs may be located no more than 100 feet from the business, product or service advertised on said sign;
2. Maximum height of sign shall not exceed thirty-five (35) feet from street grade.
3. The following sign types are permitted:
 - a. Address Signs (Sign area not to exceed 1 square foot);
 - b. Directional Signs;
 - c. Real Estate Signs (Sign area not to exceed 24 square feet);
 - d. Government Signs;
 - e. Campaign Signs (Sign area not to exceed 16 square feet);

- f. Joint Identification Signs (Sign area not to exceed 36 square feet).
- g. Wall Signs (Sign area not to exceed 1 square foot for each linear foot of building frontage);
- h. Free-Standing Signs (Sign area not to exceed 100 square feet);
- i. Construction Signs (Sign area not to exceed 25 square feet).

Section 4: SPECIAL EXCEPTIONS. Any sign type may be granted special exception status after review by the Board of Adjustment and subject to any conditions deemed by the Board to be appropriate.

Section 5. ADDITIONAL REGULATIONS. In all districts, signs and billboards shall adhere to pertinent state regulations and other local ordinances.

Section 6: GENERAL SIGN PROVISIONS.

- A. Hazardous Signs: No sign permitted by this ordinance shall, by reason of its location, lighting, size, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop", "caution", "warning", etc., unless such sign is intended to direct traffic within the premises.
- B. Sign Maintenance: All signs and sign structures shall be properly maintained and kept in a safe, orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, or replaced by the property owner or agent of the owner of the property upon which the sign is located, after written notice by the City of Orange City.
- C. Interference: No sign, nor any guys, stay or attachment thereto shall be erected, placed or maintained by any person on rocks, fences, or trees; nor in such a manner as to interfere with the effective use of firefighting equipment or personnel, or any electric light, power, telephone, telegraph or TV cable wires or supports thereof.
- D. Signs in Right-of Way: No signs other than government signs shall be erected or temporarily placed within any public rights-of-way except as may be specifically provided herein.
- E. Clearance: All signs located over public rights-of-way or any public or private access route (sidewalk, mall, etc.) shall be located a minimum of fifteen (15) feet above grade level.
- F. Safe Ingress and Egress: No sign or part thereof shall be erected or maintained so as to prevent or deter free ingress and egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- G. Signs Required by Law: All signs required by law shall be permitted in all districts.
- H. Back to Back Signs: If a free-standing sign or sign structure is constructed so that the faces are not back to back, the angle shall not exceed thirty degrees. If the angle

is greater than thirty degrees, the total area of both sides added together shall be the calculated sign area. Back to back signs (when less than thirty degrees) shall be considered as one sign when debited against the total number of signs permitted on one zoning lot.

- I. Obsolete Signs: Obsolete signs which advertise an activity, business product or service which is no longer produced or conducted on the premises shall be removed within ninety (90) days from date of notice provided by the City of Orange City. The owner of the property on which the sign is located shall have ninety (90) days from date of notice to remove any such sign. If after the expiration of the ninety (90) day period, the sign has not been removed, the City may cause the sign to be removed and any expenses may be charged back to the property owner.
- J. Illumination: All externally illuminated signs shall be constructed so as to direct the source of light away from adjacent properties or public streets.
- K. Animated Signs: Animated signs may be allowed as a special exception requiring a hearing before the Board of Adjustment.
- L. Double Frontage: Lots having frontage on two streets or on a street and an alley shall be permitted to provide the maximum number and square footage of signs on each of the opposite ends of said lot, provided however, that not more than the maximum number of square feet of signs per frontage may be viewed simultaneously.
- M. Permit Required: No sign except permitted signs as identified herein shall be erected, altered, constructed or modified without first receiving a valid sign permit from the City.
- N. Sign Permit Application: The application for a sign permit shall contain such information as may be deemed necessary for the proper enforcement of this ordinance.
- O. Permit Fees: To defray administrative costs of processing requests for sign permits, the applicant for a sign permit shall pay to the City Clerk, a fee in the amount established by the City Council.

Section 7: PERMITTED SIGNS. The following signs are allowed without a permit but shall comply with all other applicable provisions of this ordinance.

- A. Government Signs: Signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.

- B. Directory Signs: A wall sign which identifies the business, owners, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising. There may be one directory sign per zoning lot not to exceed two (2) square feet of area per business or resident occupant.
- C. Parking Signs (on site): On-site directional and parking signs intended to facilitate the movement of vehicles and pedestrians upon which the sign is located. Such signs shall not exceed six (6) square feet of area.
- D. Integral Signs: Name of buildings, date of construction, commemorative tablets and the like, which are of the building or structure.
- E. Campaign Signs: Signs or posters announcing the candidate seeking political office, advertising political issues or the data pertinent thereto. These signs shall remain for no longer than forty-five (45) days prior and one (1) day after the election for which they were intended and shall be removed by the owner of the property on which they are located. All signs shall be confined to private property and shall not be attached to trees, utilities or rocks.
- F. Construction Signs: A non-illuminated sign announcing the names of architects, engineers, contractors, future use, and other individuals or firms involved with the construction, alteration, or repair of such building (but not including any advertisement of any product). Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One (1) sign shall be permitted for each major street the project abuts.
- G. Real Estate Signs: Any on-site sign announcing the owner, manager, realtor or other person directly involved in the sale or rental of the property. Signs shall not measure more than six (6) square feet in the residential districts nor twenty-four (24) square feet in the other districts. Only one (1) real estate sign may be allowed per zoning lot.

ARTICLE #17 / NONCONFORMITIES

Section 1: INTENT. It is the intent of this ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming uses of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

Section 2: NONCONFORMING USES OF LAND. Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance with the exception of areas zoned commercial where the nonconforming land use is of residential nature, whereas expansion of accessory buildings will be allowed following the residential districts site development regulations.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

- C. If such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Section 3: NONCONFORMING LOT OF RECORD. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots of the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located.

Section 4: NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity with the exception of areas zoned commercial where the nonconforming land use is of residential nature, whereas expansion of accessory buildings will be allowed following the residential districts site development regulations.
- B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this ordinance.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Discontinuance. In the event that a non-conforming building or structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

Section 5: NONCONFORMING USES OF STRUCTURES AND LAND.

Where a lawful use of a structure, or of a structure and land in combination exists at the effective date of adoption or amendment of this ordinance that would not be permitted in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted

in the district in which it is located with the exception of areas zoned commercial where the nonconforming land use is of residential nature, whereas expansion of accessory buildings will be allowed following the residential districts site development regulations.

- B. Any nonconforming use may be extended throughout any parts of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- D. When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for a period of more than one year, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- E. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- F. A nonconforming lot of record which does not meet the required lot area or lot width requirements may be developed for a single family dwelling so long as the required yard setbacks are maintained.

Section 6: REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

Section 7: REPLACING DAMAGED BUILDINGS. Any non-conforming building or structure damaged more than fifty (50) percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God shall not be restored or reconstructed and used as before such happening, but if less than fifty (50) percent damage above the foundation, it may be restored, reconstructed, or used as before provided it be started within one (1) year of such happening.

Section 8: USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING USES. Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use in such district. Any expansion shall be with the Board of Adjustment.

Section 9: CHANGE OF TENANCY OR OWNERSHIP. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures, or of structures and land in combination.

ARTICLE #18 / SPECIAL EXCEPTIONS

Section 1: PROCEDURES AND REQUIREMENTS. Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this ordinance. In granting a special exception use permit, the Board of Adjustment will authorize the issuance of a special exception use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.

Section 2: APPLICATION FOR SPECIAL EXCEPTION PERMIT. A request for a special exception use permit for a special exception use or modification of a special exception use may be initiated by a property owner or his or her authorized agent by filing an application with the Zoning Administrative Officer upon forms prescribed for the purpose. The application shall be accompanied by a site plan and other such plans and data showing dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the City Council.

- A. APPLICATION AND FEE: Application for a Special Exception Use Permit shall be filed with the Zoning Administrative Officer. The Board of Adjustment shall provide a copy of the application for special exception for review and comment of the Planning and Zoning Commission within five (5) days after receipt of the application. The application shall include the following:
1. Name and address of the owner and applicant.
 2. Address and legal description of the property.
 3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
 4. The property address and the name and mailing address of the owner of each lot within two hundred feet (200') of the subject property and a map with parcels keyed to the ownership and address data certified by an licensed abstractor, land surveyor or attorney.
 5. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application.
 6. Site plans, preliminary building elevations, preliminary improvement plans, and such additional maps and drawings, all dimensions sufficiently shown, as required to illustrate the following:
 - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.

- b. The location and dimensions of boundary lines, easements, and required yards and setbacks.
- c. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and approximate location of existing buildings on abutting sites within fifty feet (50').
- d. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs, and lighting.
- e. The location of watercourses and drainage features.
- f. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
- g. The relationship of the site and proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.

7. Any applicable fee established by the Orange City City Council.

Section 3: PROCEDURES. A special exception shall not be granted by the Board of Adjustment unless and until the following procedures have been fulfilled:

- A. The Board of Adjustment shall provide a copy of the application for special exception for review and comment to the Planning and Zoning Commission.
- B. The Planning and Zoning Commission shall provide the Board of Adjustment with their recommendations within fifteen (15) days after receipt of the application.
- C. After receipt of the Planning and Zoning Commission's recommendations, the Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given of the public hearing as required by State Statute by publication in a newspaper of general circulation in the City. Notice shall be given to a complete list of persons provided by the applicant who are all of the owners of property within two hundred (200) feet of the property in question.
- D. The Board of Adjustment shall determine that it is empowered under this ordinance to grant the special exception as described in the application, and that the granting of the special exception will not adversely affect the public interest pursuant to testimony presented at the public hearing and the review by the Planning and Zoning Commission.
- E. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of this ordinance.

- F. The concurring vote of three members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6) months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six (6) month period and construction is commenced.

Section 4: STANDARDS. No special exception permit shall be granted by the Board of Adjustment unless such Board shall find:

- A. That the establishment, maintenance, or operation of the special exception use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
- B. That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- C. That the establishment of the special exception use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage, parking, and/or necessary facilities have been or will be provided.
- E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- G. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- H. The use shall not include vibration which is discernable without instruments on any adjoining lot or property.
- I. The use shall not involve any malodorous gas or matter which is discernable on any adjoining property.
- J. The use shall not involve any pollution of the air by fly-ash, dust vapors, or other substance which is harmful to health, animals, vegetation or other property or which causes soiling, discomfort or irritation.
- K. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

- L. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- M. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- N. That the use will not be in conflict with the Comprehensive City Plan.
- O. The use shall not interfere with the use or enjoyment of neighboring permitted uses. If such interference is found provisions must be made for increased setbacks (up to 500 feet) from property lines or screening of incompatible use by the use of fences or hedges.
- P. The ground coverage shall be such that no additional dust or storm run-off is generated by the special exception use.
- P. The use shall not create a hazard to vehicular traffic. If any such hazard is determined, provisions must be made to increase the required setback in regard to open air storage.
- R. The use shall not cause any permanent, irreparable environmental damage to the parcel or neighboring lands.
- S. The special exception use permit may be reviewed after a specified period of time for compliance and for possible additional conditions.
- T. Residential listed as special exceptions in commercial districts may be required to provide the setbacks required in the R-2 district for the safety and comfort of residents and for the provision of open space and off-street parking.

Section 5: SUPPLEMENTAL STANDARDS. In addition to the general standards outlined in Section 4 above, specified uses shall adhere to standards as follows:

- A. **Salvage Yards:** All salvage yards, including any area where waste, junk, discarded or wrecked and salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or "wrecking" of automobiles or machinery or other vehicles, shall be located in the Light Industrial district under special exception use.

The application for a special use permit shall be accompanied with a proposed intent or covenant to meet the minimum requirements described herein:

1. The yards shall be at least five hundred (500) feet distant in all directions from any residential building;

2. The out-of-doors yards shall be screened by a solid wall or uniformly painted solid fence not less than eight (8) feet in height, or in lieu thereof, a landscape buffer strip fifty (50) feet wide with deciduous and evergreen trees and large shrubs to provide a landscape screen at least ten (10) feet high, may be planted;
3. An off-street parking or service area in connection with the yards may be located outside of the screened-in area.

- B. Open-Air Sales Display and Storage: All open-air sales display and storage, including used auto sales and storage, new auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, or equipment sales and storage, shall require a Special Use Permit.

The application shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:

1. The sides and rear lot lines, when abutting properties used for residential dwellings, may be required to be screened with a wall or fence with its surface at least fifty (50) percent solid and at least seven (7) feet in height. The fence shall not be required to extend beyond the front yard setback line;
2. All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent residential properties, or public streets, thereby creating a traffic hazard.
3. No lighted flashing signs, or revolving beacon lights shall be permitted closer than seventy-five (75) feet to the street property line or residential properties and less than fifteen (15) feet above ground or more than thirty-five (35) feet above the ground;
4. The open-air area shall be maintained to be reasonably free of weeds, debris, trash and other objectionable materials.

- D. Planned Unit Development:

A. Purpose

The purpose of Planned Unit Development (PUD) regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provisions of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas.

The procedure is intended to permit diversification in the location of structure and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy of buildings and facilities in planned groups. A planned unit development to be eligible under this Article must be:

1. In accordance with the Comprehensive Plan of the City and with the regulations of this Ordinance;
2. An effective and unified means of treating possible development providing for preservation of scenic features and amenities of the site and the surrounding area;
3. So designed in its space allocation, orientation, landscaping, circulation system, materials and other features as to produce an environment of stable and desirable character, complementing the design and values of the neighborhood.

B. Tract and Land Use

1. Minimum Area. A planned unit development shall include no less than five (5) acres of contiguous land;
2. Open Space. A minimum of twenty-five (25) percent of planned unit site area shall be developed as public open space. Parking areas and vehicle access facilities shall not be considered in calculating open space;
3. Land Use. At least ninety (90) percent of the PUD site exclusive of open space shall be devoted to those uses permitted in the zone district in which the PUD is located. In Agriculture or R-1 Districts, at least fifty (50) percent of the dwelling units shall be one family detached units. Proposed land uses shall not adversely affect surrounding development, and shall be in accordance with the objectives and policies of the General Plan;
4. Unity of Control. In order that the purpose of these regulations may be realized, the land and buildings and appurtenant facilities shall be in single ownership, or under management or supervision of a central authority, or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions herein.

- C. Application Procedures: Planned Unit Development shall be subject to the approval of the Zoning Board of Adjustment based upon review and recommendations by the Planning and Zoning Commission.
1. General Development Plan. The Applicant shall file a General Development Plan which shall include the following information:
 - a) A statement describing the general character of the intended development.
 - b) An accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
 - c) A plan of the proposed project showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval, as follows:
 - i) The pattern of proposed land use including shape, size and arrangement of proposed use areas, density and environmental character.
 - ii) The pattern of public and private streets.
 - iii) The location, size and character of recreational and open space areas reserved or dedicated for public uses such as schools, parks, greenways, etc.
 - iv) A utility feasibility study.
 - d) Appropriate statistical data on the size of the development, ratio of various land uses, percentage of multi-family units by number of bedrooms, economic analysis of the development, expected staging, and any other plans or data pertinent to evaluation by the City.
 - e) General outline of intended organizational structure related to property owners association, deed restrictions and private provision of common services.
 2. Specific Implementation Plan. A specific and detailed plan for implementation of all or part of a proposed PUD after approval of the General Development Plan must be submitted within a reasonable period of time as determined by the Zoning Board of Adjustment. The specific implementation plan shall be submitted for review by the Planning and Zoning Commission and approval or disapproval by the Zoning Board of Adjustment and shall include the following detailed construction and engineering plans and related detailed documents and schedules:

- a) An accurate map of the area covered by the plan including the relationship to the total general development plan.
- b) The pattern of public and private roads, driveways, walkways and parking facilities.
- c) Detailed lot layout and subdivision plat where required.
- d) The arrangement of building groups, and their architectural character.
- e) Sanitary sewer and water mains.
- f) Grading plan and storm drainage system.
- g) The location and treatment of open space areas and recreational or other special amenities.
- h) The location and description of any areas to be dedicated to the public.
- i) General landscape treatment.
- j) Proof of financing capability.
- k) Analysis of economic impact upon the community.
- l) A development schedule indicating (1) the approximate date when construction of the project can be expected to begin; (2) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin; (3) the anticipated rate of development; (4) the approximate date when the development of each of the stages will be completed; and (5) the area and location of common open space that will be provided at each stage.
- m) Agreements, bylaws, provisions, or covenants which govern the organizational structure, use, maintenance, and continued protection of the PUD and any of its common services, common open space that will be provided at each stage.
- n) Any other plans, documents, or schedules requested by the City.

D. Criteria Approval: As a basis for determining the acceptability of a PUD application, the following criteria shall be applied to the precise development plan for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this Ordinance, has been prepared with competent professional advise and guidance, and produces significant benefits in terms of environmental design.

1. Character and Intensity of Land Use. In a PUD, the uses proposed, and their intensity and arrangement on the site, shall be of visual and operational character which:
 - a) Is compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth, and open space.
 - b) Would produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.
 - c) Would not adversely affect the anticipated provision for school or other municipal services.
 - d) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
2. Economic Feasibility and Impact. The proponents of a PUD application shall provide evidence satisfactory to the Zoning Board of Adjustment of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the City or the values of surrounding properties.
3. Engineering Design Standards. The width of street rights-of-way, width and location of street or other paving, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based upon determination as to the appropriate standards necessary to implement the specific function in the specific situation; provided, however, that in no case shall standards be less than those necessary to ensure the public safety and welfare as determined by the City.
4. Preservation and Maintenance of Open Space. In a PUD, adequate provision shall be made for the permanent preservation and maintenance of common open space either by private reservation or dedication to the public:
 - a) In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the City as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development. Buildings or uses for noncommercial, recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or subsequently, with the expressed approval of the Zoning Board of Adjustment following approval of building, site and operational plans by the Planning Commission. All easements subject to acceptance by the City Council.

- b) The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the City and shall be included in the title to each property.
- c) Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the City and made a part of the conditions of the plan approval.

5. Approval of the Specific Implementation Plan

- a) Following a review of the specific implementation Plan, the Planning and Zoning Commission shall recommend to the Zoning Board of Adjustment that they be approved with modifications, or disapproved.
- b) Upon receipt of the Planning and Zoning Commission recommendation, the Zoning Board of Adjustment may approve the plan and authorize the development to proceed accordingly, or disapprove the plan.
- c) In the event of approval of the Specific Implementation Plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the City offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within ninety (90) days in the County Recorder's Office. This shall include posting a performance bond or certified check with City of Orange City, Iowa, guaranteeing that required improvements will be constructed according to the approved implementation schedule. This shall be accomplished prior to the issuance of any building permit.
- d) Any subsequent change or addition to the plans or use shall first be submitted for approval to the Zoning Board of Adjustment and Planning Commission and if such change or addition constitutes a substantial alteration of the original plan, the procedures in above shall be required.
- e) If construction of the PUD does not commence and continue in reasonable accordance with the development schedule, then the PUD shall be voided.

ARTICLE #19 / ENFORCEMENT

Section 1: ADMINISTRATIVE OFFICER. The purpose of this Section is to confirm the existing Zoning Administrative Officer, and it shall be the duty of said officer to enforce this Ordinance. Such officer may be a person holding other appointive office in the City, or in another governmental agency.

Section 2: ZONING COMPLIANCE. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrative Officer, stating that the building and use comply with the provisions of this Ordinance.

No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this Ordinance.

Nothing in this part shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.

Section 3: APPLICATION FOR COMPLIANCE PERMIT. Compliance permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving into, or the structural alteration of a building or structure, including billboards. Permits shall be kept on file in the office of the Zoning Administrative Officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Compliance permits shall be issued to complying applicants within seven (7) days after application is made.

Section 4: PLATS. Each application for a compliance permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this ordinance.

Section 5: CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS AND PERMIT. Compliance permits issued on the basis of plans and applications, approved by the Zoning Administrative Officer, authorize only that use, arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Article 20.

Section 6: FEES. Before receiving a compliance permit the owner or his agent shall pay to the City the permit fee as provided by resolution of the Council. Such fee shall be based on valuation. The City government shall be exempt from paying any scheduled fees.

Section 7: SPECIAL EXCEPTIONS. A compliance permit for a special exception may be issued by the Administrative Officer after review by the Planning and Zoning Commission and upon order of the Board of Adjustment.

ARTICLE #20 / VIOLATION AND PENALTY

Section 1: VIOLATION AND PENALTY. The violation of any of the provisions of this Ordinance shall constitute a misdemeanor. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance, upon conviction shall be subject to a fine of not more than two hundred dollars (\$200). Each day that a violation is permitted to exist constitutes a separate offense.

Section 2: RESTRAINING ORDER. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of Orange City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

ARTICLE #21 / BOARD OF ADJUSTMENT

Section 1: CONFIRMATION OF EXISTING BOARD OF ADJUSTMENT. The members of the existing Board of Adjustment are hereby confirmed to continue their appointed terms of office. Future members of the Board of Adjustment shall be appointed by the City Council for a term of five (5) years. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after a public hearing. Any vacancy shall be filled by the City Council.

Section 2: PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his/her absence the acting chair-person, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Board. The presence of three (3) members shall constitute a quorum.

Section 3: HEARINGS, APPEALS, NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the City of Orange City affected by a decision of the Administrative Officer. Such appeals should be taken within a reasonable time, not to exceed sixty (60) days, by filing with the Administrative Officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record from which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney. A fee to be determined by resolution of the City Council shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay to the credit of the General Revenue Fund of the City.

Section 4: STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action which was appealed, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on the application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

Section 5: POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

- A. Administrative Review: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance.
- B. Special Exceptions: To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance.
- C. Variances: To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustments unless and until:
 - 1. A written application for a variance is submitted demonstrating:
 - a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - b) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
 - c) That the special conditions and circumstances do not result from the actions of the applicant.
 - d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
 - 2. Notice of public hearing shall be given to immediately adjacent property owners and to those required by law.
 - 3. The public hearing shall be held. Any party may appear in person or by agent or attorney.
 - 4. The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance.
 - 5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the

variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
7. The application for a variance shall be accompanied by a fee to be determined by resolution of City Council.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 20 of this Ordinance.

Section 6: DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify, order requirements, decision, or determination as ought to be made and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation in application of this Ordinance.

Section 7: APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, Code of Iowa.

ARTICLE #22 / CHANGES AND AMENDMENTS

Section 1: PROCEDURES. This Ordinance and the district map created by said Ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission shall have forty-five (45) days in which to submit its report to the City Council. If the Commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have approved the proposed amendment.

A public hearing shall be held by the City Council before adoption of any proposed amendment to this Ordinance. A notice of such public hearing shall be published not less than seven (7) days prior to the date established for such hearing along with notification of the owners of all property within two-hundred (200) feet of the property for which the change is requested. In no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice. Such notice shall include the time and place for the public hearing.

In case the Planning and Zoning Commission does not approve the change, or in a case of a protest filed with the City Council against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the City Council.

Section 2: APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES. Any person may submit to the Council, an application requesting a change in the zoning district boundaries as shown on the official zoning map.

- A. Each application shall be filed with the Administrative Officer accompanied by a fee as determined by resolution by the City Council and shall contain the following information:
 - 1. The legal description and local address of the property.
 - 2. The present zoning classification and the zoning classification requested for the property.
 - 3. The existing use and proposed use of the property.
 - 4. The names and addresses of the owners of all property within two-hundred (200) feet of the property for which the change is requested.
 - 5. A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
 - 6. A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within two-hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

- B. All fees shall be deposited to the General Revenue Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.
- C. Upon receipt of the application by the Administrative Officer a copy shall be forwarded immediately to the Planning and Zoning Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
 - 1. Whether or not the current district classification of the property to be rezoned is valid.
 - 2. Whether there is a need for additional land zoned for the purpose requested.
 - 3. Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - a. Whether the rezoning would result in a population density or development which would in turn cause demand for services and utilities in excess of the capacity planned for the area;
 - b. Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
 - c. Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.
- D. The Commission shall report its determinations and recommendations to the Council within forty-five (45) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The Council shall then hold a public hearing as provided in Section 1 above.

ARTICLE #23 / SEVERABILITY CLAUSE

Section 1: SEVERABILITY. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

ARTICLE #24 / REPEAL OF CONFLICTING ORDINANCES

Section 1: REPEAL. All existing Zoning Ordinances and parts of Zoning Ordinances in conflict with this Ordinance, are hereby repealed.

ARTICLE #25 / REPEAL OF CONFLICTING ORDINANCES

This ordinance shall be in full forces and effect from and after its passage, approval, and publication, as provided by law. Passed by the City Council on the ____ of ____, 2008.

TITLE 12 SUBDIVISION REGULATIONS

CHAPTER 1: SUBDIVISIONS

SECTION:

- 12-1- 1: Title
- 12-1- 2: Purpose
- 12-1- 3: Definitions
- 12-1- 4: Jurisdiction
- 12-1- 5: Procedure
- 12-1- 6: Subdivision Design Standards
- 12-1- 7: Preliminary Plan
- 12-1- 8: Final Plat Requirements
- 12-1- 9: Minimum Improvements Required
- 12-1-10: Variations and Exceptions
- 12-1-11: Violation and Penalty
- 12-1-12: Changes and Amendments

12-1- 1: TITLE.
This Ordinance shall be known, referred to, and cited as "The Land Subdivision Ordinance of the City of Orange City, Iowa. "

12-1- 2: PURPOSE.
The purpose of this Ordinance is to promote the public health, safety, and general welfare of the community and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; to facilitate the further subdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things, of the character of the City, with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the City as it relates to the limit of service existing municipal capital improvement commitments, either planned or existing for Orange City and the unincorporated area of Sioux County within the extra territorial plat jurisdiction area.

12-1- 3: DEFINITIONS.
For this purpose, certain words and terms are herewith defined; the singular includes the plural and the plural includes the singular; the word "shall" is mandatory and not directory.

SUBDIVISIONS: Subdivision means

- (a) The division of any parcel of land shown as a unit or as contiguous units of the last preceding tax roll, into three or more parts any one of which is less than five (5) acres, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five (5) acres not involving any new streets or easements of access, and the sale or exchange does not create additional building sites shall be exempted; or
- (b) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants, or lease holders or as easements for the extension and maintenance of public sewer, water, storm, drainage, or other public facilities.

ADMINISTRATIVE OFFICER: The persons or person officially designated by the City Council of the City of Orange City as the officer responsible for the administration and enforcement of this Ordinance.

BUILDING LINES: A line on a plat between which line and a property line no structure, including any projection above the juncture of the ground and building may be erected.

CULS-DE-SAC: A minor street with only one outlet and culminated by a circular or looped connection.

EXTRA TERRITORIAL PLAT APPROVAL JURISDICTION: The unincorporated area within one mile of the corporate limits of Orange City, Iowa.

LOT: A portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

RIGHT-OF-WAY: The width, between property lines, of a road, street, parkway, alley, pedestrian walkway, or other public system.

ROADWAY: That portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

STREET: All property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise designated for the movement of vehicles.

ARTERIAL STREETS AND HIGHWAYS are those which are used primarily for fast or heavy traffic.

COLLECTOR STREETS are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

MINOR STREET: A street not designated as Arterial or Collector street in major thoroughfare plan for Orange City, Iowa.

ALLEY-SERVICE: A service roadway providing a secondary means of public access to the abutting property intended only for the services access of utilities and not to be used for general traffic circulation.

ALLEY-VEHICULAR: A public or private way permanently reserved as a secondary means of access to abutting properties.

EASEMENT: A grant by a property owner of the use, for a specific purpose or purposes, of a strip or parcel of land to the general public, a corporation, or persons.

IMPROVEMENTS: The furnishing of all materials, equipment, work, and services, including plans and engineering services, staking, and supervision necessary to construct all the improvements required in Sections 12-1-4 and 12-1-5 of this Ordinance or any other construction that may be provided by the subdivider. AU of such materials, equipment, and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to construct or complete such improvements.

SUBDIVIDER: The term subdivider means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group of combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein.

PERFORMANCE BOND: A surety bond or cash deposit made out to the City of Orange City in an amount equal to the full cost of the improvements which are required by this regulation in the final plat, said cost being estimated by the Consulting City Engineer or City Planning and Zoning Commission, and said surety bond or cash deposit being legally sufficient to secure to the City of Orange City that the said improvements will be constructed in accordance with this regulation.

COMMISSION: The City Planning and Zoning Commission of the City of Orange City, Iowa.

PLAN: A map or drawing which shows the general arrangement of the scheme or design for the subdivision of land, dedication of streets, other rights-of-way or easements which shall contain general dimensioning and not including detailed accurate lot dimensions curvatures and other engineering data.

12-1- 4: **JURISDICTION.**

It shall be unlawful for any person being the owner, agent, or person having control of any land within the City of Orange City and the extraterritorial plat jurisdiction area

to create a subdivision unless by a plat, in accordance with the regulations contained herein. Such plat shall first be submitted to the City Planning and Zoning Commission for approval or disapproval. After report and recommendation of the Commission are made and filed, such plats shall be submitted to the City Council for its approval or disapproval. No plat shall be recorded and not lots shall be sold from such plat unless and until approved as herein provided and all public lands and rights dedicated.

The design and layout of all subdivisions shall conform with the requirements Of Section 12-1-6 hereof. The subdivider shall submit a preliminary and final plan in accordance with the specification of this Ordinance.

PLANNING AND ZONING COMMISSION

STEP SUBDIVIDER

1. Gathers information and data on existing conditions; studies site suitability and development opportunities; discusses financing, planning and marketing with those interested; with his land planner, develops a preliminary sketch form which is submitted to the planning commission for advice and assistance.
2. Planning and Zoning Commission, Reviews preliminary plan and program as they relate to the community master plan, design standards, improvement requirements, informs and discusses with subdivider the results of review .
3. Arrives at preliminary conclusions; if he decides to continue, reaches tentative agreements or understandings with those associated with him, and others concerned such as the lender and the F.H.A. ; prepares a preliminary plan for submission with his application for approval .
4. Reviews application and preliminary plan for conditional approval to determine conformity to subdivision standards. Grants conditional approval, subject to conditions agreed upon, or disapproves.

5. Prepares working drawings for required minimum improvements and gets approval of Administrative Officer.
6. Prepares final plat and submits it, with other required material and documents, with application for approval by the Planning and Zoning Commission.
7. Reviews application and grants approval of final plat, or informs subdivider what is lacking to obtain approval for recording.
8. City Council approval pending performance bond.
9. Records the approved final plat and documents.
10. Posts evidence of recording certified check or performance bond and receives certified approval from City Clerk.
11. Proceeds with his development plans and improvements and thereafter his sales of lots and houses.

12-1- 5: PROCEDURE .

(a) General Requirements. The design and layout of all subdivisions shall conform with the requirements of this Ordinance. The subdivider shall make improvements and shall submit preliminary and final plats, all in accordance herewith.

(b) Consultation with Officials and Agencies. Before the subdivision plan is prepared, the subdivider shall consult with the City Planning and Zoning Commission to become thoroughly familiar with all the subdivision requirements and with all applicable zoning regulations and proposals of the Comprehensive Plan of the City. The subdivider shall also consult with the:

- (1) City Planning and Zoning Commission and Public Works Director regarding roads and drainage or other construction, and the availability of sanitary sewers and water lines.
- (2) State Department of Health regarding all sanitation including wells and septic tanks when water and sanitary sewer are not available.

(c) Pre-application Procedures. Previous to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit to the City Planning Commission plans and data as specified in Section 12-1-7. This step does not require formal application, fee, or filing of plat with the Planning Commission.

Within thirty (30) days the Planning Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Planning Commission finds the plans and data do not meet the objectives of these regulations it shall express its reasons therefore.

(d) Preliminary Plan

(1) The subdivider shall first prepare and file with the Commission four (4) copies of a preliminary plan conforming to the requirements set forth in this regulation. Said plans shall be accompanied by a fee of One Dollar (\$1.00) for each lot in the subdivision, providing said subdivision does not consist of less than ten (10) lots in which case, a minimum filing fee of Twenty Five Dollars (\$25.00) shall be required.

(2) The Commission shall forthwith refer two (2) copies to the Public Works Director and Administrative Officer. Before any preliminary plats are considered, annexation within the city limits must occur.

(3) A hearing on the proposal will be held before the Commission at its first meeting following the filing. No hearing shall be held by the Commission until notice thereof, which shall include the time and place, shall be given to interested parties by the City Attorney in behalf of the Commission by publication of notice of said hearing in a newspaper having general circulation in the City of Orange City for at least one insertion a week prior to the date of said hearing and by mailing a notice to the person or persons who filed the preliminary plans to the address set forth in the filing papers.

(4) The Administrative Officer and Public Works Director shall carefully examine said plan as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices, and shall, within fifteen (15) days, submit findings in duplicate to the Commission together with one copy of the plan received.

(5) The Commission shall, upon receiving the reports, as soon as possible, but not more than thirty (30) days thereafter, consider said report and pass upon the plan. It shall then set forth its recommendations in writing, whether of approval, modification, or disapproval. In the case of modification or disapproval, it shall give its reasons therefore. The Commission shall forthwith return one copy of the approved preliminary plan to the subdivider.

(6) The approval of the preliminary plan by the Commission is revocable and does not constitute final approval or acceptance of the subdivision by the City Council or authorization to proceed on construction of improvements within the subdivision but shall constitute approval of layout and general engineering proposals and plans.

(e) Final Plat

(1) Upon approval of the preliminary plan by the Commission, the subdivider may proceed with the preparation of the final plat and detailed construction drawings and specifications for the improvements required under this regulation.

(2) Before submitting the final plat to the Commission for approval, the subdivider shall furnish all plans and information as listed in "Final Flat and the "Minimum Improvements Requirements," and obtain the approval of the Administrative Officer and Public Works Director which shall be endorsed, thereon.

(3) For final plat approval, the subdivider shall submit to the Commission:

[a] Nine (9) copies of the final plat.

[b] A performance bond in the amount approved by the Administrative Officer.

[c] One copy of the certified approved plans, profiles, cross sections, and specifications .

[d] A certificate from the Administrative Officer that the final plat is substantially in accord with the preliminary plan as approved by the Commission.

(4) Where any municipal improvement system is planned for larger installations than what the subdivider needs for a particular subdivision the Administrative Officer and Public Works Director, shall submit estimates of costs and/or also suggested negotiable financing arrangement to the Planning and Zoning Commission, who shall in turn consider such negotiations and submit their recommendations to the City Council.

(5) When the final plat has been passed upon by the Commission, six (6) copies of the final plat and performance bond shall forthwith be transmitted to the City Council, together with a certificate showing the action of the Commission.

(6) When the final plat has been approved by the City Council, the performance bond accepted, and all six (6) copies duly certified, two (2) copies shall be delivered to the Commission; two (2) copies to the Administrative Officer and one to the City Clerk for their respective files, and one to the subdivider for filing with the County Recorder. If said plat is disapproved by the City Council, such disapproval shall point out, in writing, wherein said proposed plat is objectionable.

(f) Recording

(1) The passage of the resolution accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the owner shall cause such plat to be recorded in the office of the County Recorder of Sioux County, Iowa, and shall file satisfactory

evidence of such recording in the office of the City Clerk before the City shall recognize the plat as being in full force and effect.

(2) Upon receipt of the duly certified copies of the final plat by the Commission, the Recording Secretary of the Commission will transmit copies of the plat, as determined by the Administrative Office, to the subdivider, City Clerk, and Public Works Director or Administrative Officer.

(g) Final Approval in Effect

(1) Receipt of the duly certified final plat and submission of a performance bond or certified check by the subdivider shall constitute the final act to enforce approval and is authorization that he may proceed with the installation and construction of the required improvements .

(2) The City Council will return the performance bond to the subdivider upon certification by the Administrative Officer, of satisfactory completion of the installation and construction of the required improvements by the City Council. Prior to certification, the subdivider shall file with the Administrative Officer plans, profiles, and cross sections of the required improvements as they have been built, which drawing shall be clearly noted with the words "AS-BUILT."

12-1- 6: SUBDIVISION DESIGN STANDARDS .

(a) Streets. All new streets shall be of the hard-surface Portland concrete type conforming to the standards and specifications approved by the Planning and Zoning Commission, and shall further conform to the following regulations:

(1) The arrangement, character, extent, width, grade, and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(2) Where such is now shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

[a] Provide for the continuation of appropriate projection of existing principal streets in surrounding areas, or

[b] Conform to a plan for the neighborhood approved or adopted by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

(3) The width of such streets in new subdivisions shall be not less than the minimum width established herein or as otherwise determined by the Planning and Zoning Commission based on traffic engineering studies. The street and alley arrangement shall not cause a hardship to adjacent property owners to provide for access to adjacent property.

(4) Where the parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided so as to allow for the opening and the ultimate extension of adjacent minor streets. Easements providing for the future opening and extension of such streets or thoroughfares may, at the discretion of the City Council, be made a requirement of the plat.

(5) Minor streets shall be so laid out that their use by through traffic will be discouraged.

(6) Where a subdivision abuts or contains an existing or proposed arterial street, the Planning and Zoning Commission may require marginal access street (fig. 3), reverse frontage with screen planting contained in a non-access reservation along the real property line (fig. 4), 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.

(7) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission 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, or for commercial or industrial purposes in appropriate districts. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

(8) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Planning and Zoning Commission .

(9) Streets with centerline offsets of less than one hundred fifty (150) feet shall be avoided (fig. 5).

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

(11) 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 one hundred (100) feet for minor and collector streets, and of such greater radii as the Planning and Zoning Commission shall determine for special cases.

(12) 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 ten (10) degrees (fig. 6).

(13) Property lines at street intersections shall be platted with a radius of ten (10) feet or an acceptable chord length, or of a greater radius where the Planning and Zoning Commission may deem it necessary.

(14) 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 Planning and Zoning Commission 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.

(15) Dead-end streets, designed to be so permanently, shall not be longer than five hundred (500) feet and shall be provided at the closed end with a cul-de-sac, having a minimum outside roadway diameter of at least eighty (80) feet, and a street property line diameter of at least one hundred twenty-five (125) feet (fig. 7).

(16) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Planning and Zoning Commission.

(b) Street Grades. Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial or major	5
Collector	7
Minor	10
Marginal access	15

(c) Street Right-of-Way

(1) Street right-of-way widths for major streets will be shown on the Major Streets Plan of the Comprehensive Plan for Orange City or unless otherwise noted, shall be a continuation of the adjoining existing arterial street.

(2) Street right-of-way widths for minor street shall be seventy-five (75) feet for streets designed for on-street parking and a minimal thirty-five (35) feet shall be dedicated whenever subdivided property adjoins a half street as designated by the Planning and Zoning Commission. The remainder of the street shall be dedicated. No homes shall be constructed on half streets.

(d) Alleys. Vehicular alleys may not be provided in a residential block. Service alleys may be provided in a residential block. Alleys are required in the rear of all business lots unless other adequate provisions are made for service and deliveries, and shall be at least twenty (20) feet wide.

(e) Blocks. No block shall be longer than one thousand two hundred (1,200) feet. Where blocks are over seven hundred fifty (750) feet in length, a cross walk with a right-of-way of at least ten (10) feet in width may be required near the center of the block.

(f) Lots

(1) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and to the character of surrounding development.

(2) However, no residential lot shall be less than seventy (70) feet in width at the building line, or less than six thousand five hundred (6,500) square feet in area.

(3) In any subdivision where neither a public sewer nor a public water supply is available, no lot shall have an area of less than twenty thousand (20,000) square feet or a width of less than one hundred twenty-five (125) feet measured at the building line. Where a public water supply is available but individual sewage disposal devices are used, no lot shall have an area of less than twelve thousand (12,000) square feet or a width of less than one hundred (100) feet.

(4) Corner lots shall have extra width sufficient to permit the establishment of front building lines on both adjoining streets.

(5) In all lots so far as possible, the side lines shall be at right angles to straight street lines or radial to curved street lines, except where a variation of this rule will provide a better street and lot layout.

(6) Double frontage and reverse frontage lots shall be avoided, except where their use will produce definite advantages in meeting special situations in relation to topography, sound site planning, and proper land use.

(g) Public Sites and Open Spaces. Where an area being subdivided includes lands, proposed to be used for parks or schools under the duly adopted Comprehensive Plan of the City, the subdivider shall indicate the location of such areas on the subdivision plat. Park sites within the city limits are to be purchased within two (2) years of the recording date of the subdivision by the City at the appraised raw land value prior to subdivision plus one-half (1/2) of the cost of grading and paving, including curbs, of the portion of any streets that are contiguous to the site. School sites are to be reserved for four (4) years, giving the public school system the right to purchase the land at the appraised raw land value prior to subdivision, plus one-half (1/2) the cost of grading and paving, including curbs, of any streets contiguous to the site. Should the park or school sites not be purchased within the time limit specified above, the subdivider may then sell them for an alternate purpose as shown on the approved subdivision plat.

(h) Character of Development. The Commission and City Council may require that certain minimum regulations regarding type and character of development be incorporated in the owner's declaration of plat. Such regulations shall be intended to protect the character and development of the platted subdivision as well as that of the surrounding development.

(i) Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for the proper drainage of surface water and shall also

provide and dedicate to the City of Orange City an easement along said streams and watercourses, meeting the approval of the Commission.

(j) Easements for Public Utilities. Public rights-of-way dedicated for alleys, parks, and service roads, may be used for public utilities. All easements to be granted for utilities shall be constructed as either pedestrian walkways, park-ways, plazas, open spaces, or playgrounds as may be deemed appropriate by the Commission. All easements and rights-of-way for parks or service roads or alleys shall be not less than eight (8) feet and granted by each adjoining owner. Larger dimensions may be required where it is necessary for extension of main sewers or other utilities or where both water and sewer are located in the same easement. No buildings or structures will be permitted on any part of an easement without approval of the Commission and authorization of the City Council.

K. Buffer Zones Between Subdivisions. Where an area being subdivided borders an existing subdivision and the proposed subdivision will have a different zoning designation than the existing subdivision, a buffer zone between the two districts may be required, especially where the existing subdivision is zoned residential. The buffer zone shall be continuous in length along the boundary of the proposed subdivision in the area where different adjoining designations occur. The buffer zone shall be of adequate width to allow the placement of fences, trees, landscaping, green spaces, etc. to provide an aesthetically pleasing separation between the different districts. The area designated as the buffer zone may contain required easements for utilities, etc., but the width of the buffer zone shall be in addition to any required yard setbacks as set forth in the zoning ordinance. Where a public street right-of-way separates the proposed and existing subdivisions, such public street right-of-way may be considered an adequate buffer zone.

(Editor's Note: Ordinance 703 was approved by City Council on July 1, 2001, amended Section 6 by adding subsection 'k')

12-1- 7: PRELIMINARY PLAN.

(a) Pre-Application Plans and Data

(1) General subdivision information shall describe or outline the existing conditions of the site and proposed developments as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playground, park areas, and other public areas, proposed protective covenants and proposed utilities and street improvements.

(2) Location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. Include development name and location; main tropic arteries; public transportation lines; shopping centers; elementary and high schools; parks and playgrounds; principal places of employment; other community features such as railroad stations, airports, hospitals, and churches; title, scale; north arrow; and date.

(3) Sketch plan on topographic survey shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may

be a free-hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data listed in Section 12-1-7(b) below or such of these data as the Planning Commission determines is necessary for its consideration of the proposed sketch plan.

(b) Preliminary Plan Specifications. The preliminary plan shall be drawn at a scale of not more than one hundred (100) feet or two hundred (200) feet to the inch and shall show the following graphic and descriptive items:

(1) Title

[a] Proposed name of the subdivision. The names shall not duplicate or too closely approximate, phonetically or otherwise, the name of any other subdivision or street in Orange City.

[b] Existing adjoining subdivision names .

[c] Names and addresses of developer and planner who made the preliminary plan.

[d] North point, scale, and date.

(2) Existing Data

[a] Location map.

[b] Boundaries of the proposed subdivision indicated by a heavy solid line, and the approximate acreage-comprised therein. Streets, buildings, water courses, tree masses, and other existing features within the area to be subdivided and similar information regarding existing conditions of land immediately adjacent thereto.

[c] Location, widths, and names of all existing or platted streets indicated as to dedicated, undedicated, constructed, or unimproved, official thoroughfares, or other public ways, railroad and utility rights-of-way, easements, parks, and other public open spaces, permanent buildings, section and corporation lines, within or adjacent to the tract.

[d] Existing sewers, water mains, culverts, or other underground items within the tract or immediately adjacent thereto, with pipe sizes, grades, and locations indicated.

[e] Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land (shown by dashed lines).

[f] Contours or ground elevations on a one hundred (100) foot grid referred to the City of Orange City's benchmark with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than five (5) feet.

(3) Proposed Items Pertaining to the Plan

[a] Preliminary layout of streets, including names and widths of alleys, crosswalkways, and easements.

[b] Layout, numbers, and approximate dimensions of lots.

[c] Parcels of land intended to be dedicated or temporarily reserved for public use, and the conditions of such dedication or reservation.

[d] A brief written description of the improvements to be installed in the subdivision.

[e] Indication as to proposed use of lots and zoning.

[f] An outline of any protective covenants and restrictions that are to be placed upon the lots.

[g] Preliminary layout and written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, and drainage structures.

[h] Preliminary layout and written and signed statements of the appropriate officials of the availability of gas, electricity, and water to the proposed subdivision.

12-1- 8: FINAL PLAT REQUIREMENTS.

(a) The final plat shall be clearly and legibly drawn to a scale of one inch to one hundred (100) feet or less in ink on tracing cloth and shall be prepared by a registered surveyor.

(b) The plat shall show:

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

(2) The name or names of the owners, subdividers, and surveyor.

(3) The date, scale, and north point, and a key map showing the general location of the proposed subdivision.

(4) The legal description of the area being platted.

(5) Accurate distances and bearings of all boundary lines of the subdivision including all sections, U. S. Survey and Congressional Township lines.

(6) Center lines of all proposed and adjoining streets with their right-of-way width and names.

(7) Lines of all lots with a simple method of numbering to identify all lots and blocks.

(8) All building lines and all easements provided for public service, together with their dimensions and any limitations of the easements.

(9) Any and all dimensions necessary for accurate location of the boundaries of the site to be developed and of all streets, lots, easements, and dedicated areas. Those dimensions shall be expressed in feet and decimals of a foot.

(10) All radii, arcs, points of tangency, central angles, and lengths of curves.

(11) Certification by a registered land surveyor that the final plat, as shown, is a correct representation of the survey as made.

(12) All survey monuments and benchmarks, together with their description.

(13) Private restrictive covenants and their period of existence.

(14) The accurate outline, dimensions, and purposes of all property which is offered for dedication or is to be reserved for acquisition for public use, or is to be reserved by deed covenant for the common use of the property owners in the subdivision.

(15) Every plat shall be accompanied by a complete abstract of title and an opinion from an attorney at law showing that the fee title is in the proprietor and that the land platted is free from encumbrance, or is free from encumbrance other than that secured by the bond provided for in Sections 12-1-4 and 12-1-5, and a certified statement from the treasurer of the county in which the land lies that it is free from taxes, and from the clerk of the district court that it is free from all judgments, attachments, mechanics' or other liens as appears by the record in his office, and from the recorder of the county that the title in fee is in such proprietor and that it is free from encumbrance or free from encumbrance other than that secured by the bond provided for in Sections 12-1-4 and 12-1-5, as shown by the records of his office.

Utility easements shall not be construed to be encumbrance hereunder and the location thereof with reference to the land platted may be shown by drawing on the plat.

12-1- 9: MINIMUM IMPROVEMENTS REQUIRED .

(a) Improvement Plans

(1) Plans, Profiles, and Cross Sections. The sub divider shall submit to the Administrative Officer the following plans, profiles, and cross sections, drawn to a horizontal scale of one inch to one hundred (100) feet or less and a vertical scale of one inch to twenty (20) feet or less, and specifications for the construction of the improvements for the subdivision as required in this regulation. All elevations shall be referred to mean sea level.

[a] The plan and profiles of each street with tentative grades and street intersection elevations.

[b] The cross sections of proposed streets showing the width of roadways, present and proposed grade lines, and location and size of utility mains. The cross sections shall be taken and platted at intervals of not more than one hundred (100) feet along the centerline unless otherwise required by the Administrative Officer, and shall extend out to the sides to that point where the proposed grade intersects the existing grade. In no case shall these cross sections be extended less than the full width of the right-of-way.

[c] The plan and profile of proposed sanitary sewers and storm water sewers with grades and pipe sizes indicated, and a plan of the proposed water distribution system showing pipe sizes and location of valves and fire hydrants.

[d] Specifications for the required improvements. Standard specifications approved by the Administrative Officer may be used.

(b) Improvements Required

(1) The subdivider shall install and construct all improvements required by this section. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Administrative Officer and Public Works Director and to the satisfaction of the City Council.

(2) Street Improvements

[a] All streets and public ways shall be graded to their full width, including side slopes, and to the appropriate grade as shown in the improvement plans or approved by the Consulting City Engineer or Administrative Officer. Where the streets serve lots having an area of less than twenty thousand (20,000) square feet, it shall be surfaced to a width of not less than thirty one (31) feet with a gravel base of not less than three (3) inches of a good grade of pit run gravel which meets the approval of the Street Commissioner. All of such construction shall be in accordance with standards and specifications of the Consulting City Engineer. Concrete curbs shall be installed along each side of the pavement.

[b] Where lots are twenty thousand (20,000) square feet or more in area, minimum pavements of twenty (20) feet in width conforming to the above standards, but without curbs and gutters, may be used, but usable shoulders with a slope of one-half (1/2) inch per foot shall be provided among any twenty (20) foot pavement.

(3) Pedestrian Walkways. Sidewalks with a minimum width of four (4) feet and a minimum thickness of four (4) inches of Portland concrete cement may be installed; provided, however, that where the property is platted in lots having an area of at least twenty thousand (20,000) square feet and a width of at least one hundred (100) feet, the City Council may waive these requirements. The sidewalks shall be constructed to the grade approved by the City Council after receiving the report and recommendation of the Administrative Officer.

(4) Major Arterial Streets. All Major Arterial Streets shall be six (6) inch or eight (8) inch concrete as determined by the design load and approved by the Consulting City Engineer and/or the Administrative Officer. The width shall be as shown on the Official Comprehensive Plan.

(5) Water Supply. Where a public water main is reasonably accessible, the subdivider shall continue with such water main and provide a water connection for each lot in accordance with standards, procedure, and supervision of the Municipal Water Department. Main sizes shall be determined by the Public Works Director. Water main connection shall be done to the instruction of the Public Works Director to fit into any looping or extension plan. A share of the total cost of water main extensions may be borne by the City. The exact amount borne shall be determined by negotiation with the subdivider with decision of the City Council as final. Fire hydrants shall be installed as specified by the Municipal Utilities, and their use will be regulated by all Ordinances pertaining thereto.

In subdivisions more than three hundred (300) feet from an existing main, pending availability of a public water supply, wells or a private water supply system shall be constructed to insure that an adequate supply of potable water will be available to each lot.

(6) Sanitary Sewers

[a] Where existing sanitary sewers are within two hundred (200) feet of an existing municipal sanitary sewer, the subdivider shall install sanitary sewerage in accordance with plans approved by the Consulting City Engineer.

[b] in other cases, where lots are less than twenty thousand (20,000) square feet and where plans for installation of sanitary sewers in the vicinity of the subdivision have been prepared by the City or other agency, the subdivider may be required to install sewers in conformity with such plans. In such cases, until a connection can be made with the public sewer system, the use of a primary sewage treatment plan will be permitted, provided such disposal facilities are constructed in accordance with the requirement of the Iowa Department of Health.

[c] In subdivisions where the lots are twenty thousand (20,000) square feet or more, a minimum width of one hundred (100) feet, and are not served by a public supply of potable water, the subdivider may install individual disposal devices for each lot at the time improvements are erected thereon. If a lot is served by a public supply of potable water, has an area of not less than twelve thousand (12,000) square feet and a width of eighty (80) feet or more, the subdivider also may install individual disposal services. All such individual sewage disposal systems shall be constructed in accordance with regulations and requirements of the Iowa Department of Health.

(7) Storm Drainage. All necessary improvements, including storm sewers or open drainage ditches, shall be made to provide for the adequate disposal of storm water and to maintain any natural drainage course. All construction shall be in accordance with plans approved by the Consulting City Engineer or by other officials having jurisdiction.

(8) Monuments. Monuments shall be placed at block corners, point of curves, change in direction along lot lines, and at each lot corner in accordance with City specifications. Monuments shall be marked by three-fourths (3/4) inch diameter iron pins or one-half (1/2) inch diameter rebar, at least thirty (30) inches long.

12-1-10: VARIATIONS AND EXCEPTIONS.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development of unusual conditions that the strict application of the requirements contained in these regulations would result in real difficulties or substantial hardship or injustice, the City Planning and Zoning Commission may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that, at the same time, the public welfare and interests of the City and surrounding areas are protected and the general intent and spirit of these regulations preserved.

Any regulations or provisions of this Ordinance may be changed or amended from time to time by the City Council, provided, however, that such changes or amendments shall not become effective until after study and report by the City Planning and Zoning Commission and until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation, at least thirty (30) days prior to such hearing.

12-1-11: VIOLATION AND PENALTY.

No plat of any subdivision shall be entitled to record in the office of the recorder of Sioux County or shall be any validity until it has been approved in the manner prescribed herein, and it shall be unlawful for the county recorder to record any part of a subdivision within the jurisdiction of the City Planning and Zoning Commission until the plat has been approved as required herein and such approval has been endorsed in writing on the plat. It shall be unlawful for the owner, or the agent of an owner, to transfer or sell any land by reference to or by other use of a plat or description unless such plat has been approved as required herein. Whoever willfully violates any of the rules and regulations prescribed herein, or fails to comply with any order issued pursuant thereto, shall forfeit and pay not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00) civil penalty.

12-1-12: CHANGES AND AMENDMENTS .

Any regulations or provisions of this Ordinance may be changed and amended from time to time by the City Council, provided, however, that such changes or amendments shall not become effective until after a study and report by the City Planning and Zoning Commission and until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation of at least ten (10) days prior to such hearing.

TITLE 13 AIRPORT ZONING

CHAPTER 1: AIRPORT ZONING

SECTION:

- 13-1- 1: Title
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- 13-1- 3: Zones and Height Limitations
- 13-1- 4: Use Restrictions
- 13-1- 5: Lighting
- 13-1- 6: Variances
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13-1- 1: TITLE.

This Ordinance shall be known and may be cited as "The Orange City Municipal Airport Height Zoning Ordinance."

13-1- 2: DEFINITIONS.

As used in this Ordinance, unless the context otherwise requires:

AIRPORT: The Orange City Municipal Airport.

AIRPORT ELEVATION: The highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be one thousand four hundred fourteen (1,414) feet.

AIRPORT HAZARD: Any structure or object of natural growth located on or in the vicinity of a public airport, or any use or land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport as is otherwise hazardous to such landing or takeoff of aircraft.

AIRPORT PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

AIRSPACE HEIGHT: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

CONTROL ZONE: Airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

MINIMUM DESCENT ALTITUDE: The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

MINIMUM ENROUTE ALTITUDE: The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

MINIMUM OBSTRUCTION CLEARANCE ALTITUDE: The specified altitude in effect between radio fixes or VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

RUNWAY: A defined area on an airport prepared for landing, and takeoff of aircraft along its length.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

13-1- 3: ZONES AND AIRSPACE HEIGHT LIMITATIONS .

In order to carry out the provisions of this Section, there are hereby created and established certain zones according to FAA requirements. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(a) Airport Height Zones.

(1) Horizontal Zones: The land lying under a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by:

[a] Swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of Runways 16 and 34 and connecting the adjacent arcs by lines tangent to those arcs.

No structure shall exceed one hundred fifty (150) feet above the established airport elevation in the horizontal zone according to FAA requirements.

(2) Conical Zone: The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface to the conical zone according to FAA requirements.

(3) Approach Zone: The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

[a] The inner edge of the Approach Surface is:

[1] Five hundred (500) feet wide for Runways 16 and 34.

[b] The outer edge of the approach zone is:

[1] Two thousand (2,000) feet for Runways 16 and 34.

[c] The Approach Zone extends for a horizontal distance of:

[1] Five thousand (5,000) feet at a slope of twenty (20) to one (1) for Runways 16 and 34.

No structure shall exceed the approach surface to any runway according to FAA requirements.

(4) Transitional Zone: The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the Approach Surfaces.

No structure shall exceed the Transitional Surface according to FAA requirements.

(5) No structure shall be erected in Sioux County that raises the published Minimum Descent Altitude or Decision Height for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum Enroute Altitude to be increased on any Federal Airway in Sioux County.

13-1-4: USE RESTRICTIONS.

Notwithstanding any other provisions of Section 13-1-3, no use may be made of land or water within Orange City or Sioux County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

(a) All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Orange City Municipal Airport or in the vicinity thereof.

(b) No operations from any use shall produce smoke, glare, or other visual hazards within three (3) statute miles of any usable runway of the Orange City Municipal Airport.

(c) No operations from any use in Orange City (or Sioux County) shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

13-1- 5: LIGHTING.

(a) NOTWITHSTANDING the provisions of Section 13-1-4, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), advisory Circular 70-7460-ID and amendments. Additionally, any structure, constructed after the effective date of this Ordinance and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-ID and amendments.

(b) Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City of Orange City at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

13-1-6: VARIANCES.

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this Ordinance, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Orange City Municipal Airport Fixed Base Operator for his opinion as to the aeronautical effects of such a variance. If the Orange City Municipal Airport Fixed Based Operator does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

13-1-7: BOARD OF ADJUSTMENT.

The Board of Adjustment provided for in Title 2, Chapter 1, Article 4 of the City Code, inclusive, shall have and exercise the following powers:

(a) To hear and decide appeals from any order, requirements, decision, or determination made by the Orange City Planning and Zoning Commission in the enforcement of this Ordinance;

(b) To hear and decide special exemptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and

(c) To hear and decide specific variances.

13-1-8: JUDICIAL REVIEW.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may appeal to the Court of Record as provided in Iowa Statutes, Section 414.15.

13-1-9: ADMINISTRATIVE AGENCY.

It shall be the duty of the Orange City Planning and Zoning Commission to administer the regulations prescribed herein. Applications for permits and variances shall be made to the Orange City Code Enforcement Officer upon a form furnished by him. Applications required by this Ordinance to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Orange City Planning and Zoning Commission.

13-1-10: PENALTIES:

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor, and be punishable by a fine of not more than Two Hundred Dollars (\$200.00). Each day that a violation is permitted to exist constitutes a separate offense.

13-1-11: CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

APPENDIX A - FRANCHISES

The city is a party to two franchise agreements at the time this code is being prepared. Those franchises are for cable television within the municipality granted to Mutual Telephone Company (approved transfer of ownership from Mediacom on September 4, 2007) and Orange City Communications (approved August 25, 2014). Full text of the franchise agreement is available at City Hall upon request.