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1.101	PURPOSE
1.102	CHARTER
1.103	FORM OF GOVERNMENT
1.104	POWERS AND DUTIES
1.105	NUMBER AND TERM OF COUNCIL
1.106	TERM OF MAYOR
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1.101 PURPOSE. The purpose of this ordinance is to provide for a charter embodying the form of government existing on July 19, 1973.

1.102 CHARTER. This ordinance may be cited as the Charter of the City of Winterset, Iowa.

1.103 FORM OF GOVERNMENT. The form of government of the City of Winterset, Iowa, is the Mayor-Council form of government.

1.104 POWERS AND DUTIES. The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the ordinances, resolutions, rules, and regulations of the City of Winterset, Iowa.

1.105 NUMBER AND TERM OF COUNCIL. The Council shall consist of five members, three members of which shall be elected at large, one Council member elected from the North Ward and one Council Member elected from the South Ward. Commencing on January 2, 1984, the two Council Members elected at large, who receive the highest number of votes in the 1983 regular City election, will serve a four-year term. The other Council Member elected at large in the 1983 regular City election will serve a two-year term commencing January 2, 1984. The Council Member elected from the North Ward in the 1983 regular City election will serve a four-year term commencing January 2, 1984. The Council Member elected from the South Ward in the 1983 regular City election shall serve a two-year term commencing January 2, 1984. Terms commencing on and after January 2, 1986 shall be four-years.

1.106 TERM OF MAYOR. The Mayor is elected for a term of two years.

1.107 COPIES ON FILE. The City Clerk shall keep an official copy of this Charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State and shall keep copies of the Charter available at the City Clerk's office for public inspection.

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| 1.201 | REGULAR MEETINGS |
| 1.202 | SPECIAL MEETINGS |
| 1.203 | ABSENT MEMBERS   |
| 1.204 | COMPENSATION     |

1.201 REGULAR MEETINGS. The regular meeting of the City Council shall be held on the first and third Monday of each month at the hour of 7:00 P.M. in the Council chambers in the City Hall. If the City Hall cannot be used, the regular meetings may be held at any place mentioned in the notice of meeting.

1.202 SPECIAL MEETINGS. The Mayor or any three members of the City Council may call a special meeting of the Council at any time. Notice thereof shall be given by regular mail to each Council Member at least two days prior to the date of the meeting.

1.203 ABSENT MEMBERS. Any Member of the City Council shall notify the Mayor or City Clerk if the Member will be absent from the Council meeting.

1.204 COMPENSATION. Each council member shall receive as compensation the sum of sixty dollars (\$60.00) for each regular or special meeting of the council attended. In addition, when a council member attends a meeting of an agency, board or commission as the appointed representative of the City, the member shall receive sixty dollars (\$60.00) for each such meeting attended.

1.301	QUALIFIED VOTER
1.302	REGULAR MUNICIPAL ELECTION
1.303	COUNCIL MEMBERS
1.304	MAYOR
1.305	TERMS
1.306	MAYOR APPOINTMENT
1.307	COUNCIL APPOINTMENTS
1.308	NORTH WARD
1.309	SOUTH WARD
1.310	NORTH WARD PRECINCTS
1.311	SOUTH WARD PRECINCTS
1.312	RUNOFF ELECTIONS

1.301 QUALIFIED VOTER. Any person residing in the City of Winterset, Iowa at the time of any municipal election for the City of Winterset who would be a qualified voter under the laws of the State of Iowa shall be deemed a qualified voter of this City.

1.302 REGULAR MUNICIPAL ELECTION. The regular municipal election of the City shall be held on the first Tuesday after the first Monday of November, in each odd numbered year, commencing in the year 1973.

1.303 COUNCIL MEMBER. The qualified electors of the City ward having the Council Member whose term expires that year shall at the regular municipal election elect by a majority of votes one Council Member for that ward. The elected Council Member shall at the time of election be a resident of the ward, a qualified elector therein, and shall be an elector and a resident in such ward during the term of office. The qualified electors of the City shall also at the regular municipal election elect, by a majority of votes, Council Members at large whose term expires that year. The elected Council Members shall be a resident and qualified elector of the City at the time of election and during their term of office.

1.304 MAYOR. The qualified electors of the City shall at the regular municipal election elect a Mayor by majority of votes. The Mayor shall be a resident and qualified elector of the City at the time of election and during the term of office.

1.305 TERMS. The term of the Mayor shall be two years. The term of the Council Members shall be four years. Elective officers shall be elected to succeed officers whose terms expire at noon of the second secular day in January following the regular municipal election; and, all officers shall hold office until their successors are elected and qualified.

1.306 MAYOR APPOINTMENT. The Mayor shall appoint the Chief of Police.

1.307 COUNCIL APPOINTMENTS. The City Council shall appoint a City Administrator and a City Attorney, who shall qualify and give bond as provided by the laws of the State of Iowa and the ordinances of the City.

1.308 NORTH WARD ALSO KNOWN AS FIRST PRECINCT. The North Ward is hereby established to include all that portion of the City lying North of a line described as commencing on Court Avenue at the East city limits, thence west along Court Avenue, following the city limits line along and north of Court Avenue, to the intersection of Court Avenue and Tenth Street, thence north along Tenth Street to the intersection of Tenth Street and Green Street, thence west along Green Street to the intersection of Green Street and Eighth Avenue, thence south along Eighth Avenue to the intersection of Eighth Avenue and Jefferson Street, thence west along Jefferson Street to the intersection of Jefferson Street and Sixteenth Avenue, thence South along Sixteenth Avenue to the city limits line, thence following the city limits line to the south, west and south to Summit Street.

1.309 SOUTH WARD ALSO KNOWN AS SECOND PRECINCT. The South Ward is hereby established to include all that portion of the City lying South of a line described as commencing on Court Avenue at the East city limits, thence west along Court Avenue, following the city limits line along and north of Court Avenue, to the intersection of Court Avenue and Tenth Street, thence north along Tenth Street to the intersection of Tenth Street and Green Street, thence west along Green Street to the intersection of Green Street and Eighth Avenue, thence south along Eighth Avenue to the intersection of Eighth Avenue and Jefferson Street, thence west along Jefferson Street to the intersection of Jefferson Street and Sixteenth Avenue, thence South along Sixteenth Avenue to the city limits line, thence following the city limits line to the south, west and south to Summit Street.

1.310 NOMINATIONS BY PETITION. In lieu of nomination for the City elective offices by primary election under the provisions of Iowa Code Section 376.6 or by runoff election under the provisions of Iowa Code Section 376.9, all candidates for elective City offices shall be nominated by Petition as provided by Iowa Code Chapter 45, as that Code Chapter now or hereafter provides.

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- 1.401 Establishment and purpose
- 1.402 Fire Chief
- 1.403 Fire Chief duties
- 1.404 Firefighters
- 1.405 Firefighter duties
- 1.406 Worker's compensation and hospitalization insurance
- 1.407 Liability insurance
- 1.408 Fires and other emergencies outside city limits
- 1.409 Winterset Fire Fighters Association

1.401 Establishment purpose and name. A fire department is hereby established to prevent and extinguish fire and to protect lives and property against fires, to promote fire prevention and fire safety, and to respond to other emergencies as enumerated in the department's standard operating guidelines.

The name of the department shall be the Winterset Fire Department.

1.402 Fire Chief. The City Administrator, or his or her designee, may authorize the Fire Department personnel to nominate by vote a qualified candidate for Fire Chief. The City Administrator, or his or her designee, shall appoint the Fire Chief for a term not to exceed two (2) years or to fill a temporary vacancy. The City Administrator, or his or her designee, may remove, suspend or demote the Fire Chief upon approval of the City Council."

1.403 Fire Chief duties. The Fire Chief shall manage the fire department. The Chief shall assist the City Administrator in preparing an annual budget for approval by the City Council. The Chief shall command all operations of the Department, ensure training, and be responsible for the care, maintenance and use of all vehicles and equipment of the department. Subject to Council approval, the Fire Chief shall establish and maintain departmental personnel policies and standard operating guidelines to carry out the requirements of the department. The Fire Chief shall provide all personnel with a written copy of these policies and procedures. The Fire Chief shall appoint personnel, fill vacancies among them, and may discharge them in accordance with the department's personnel policies and procedures. The Fire Chief shall keep a record of the names, ages and residences of personnel and be responsible for their training and supervision, and shall maintain attendance records for activities. The Fire Chief shall investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury or death to any person. Whenever death, serious bodily injury or property damage in excess of one million dollars (\$1,000,000) has occurred as a result of fire, or if arson is suspected, the Fire Chief shall notify the state fire marshal's division immediately. The Fire Chief shall report other fire incidents within ten (10) days following each month to the state fire marshal in accordance with law. The Chief has the authority to enter and inspect any building or premises in the performance of duties and shall make written orders to correct any conditions that are likely to cause fire or endanger other buildings and property.

1.404 Firefighters. The Fire Chief shall appoint and dismiss firefighters in accordance with the department's personnel procedures. Volunteer personnel of the department shall be employees of the City of Winterset. Prior to appointment and every 2 years thereafter all personnel must pass a medical physical examination compensated by the City.

The Department, in accordance with the department's personnel procedures, may establish and create officer positions in addition to the position of Chief. The officers of the Department, other than the Chief, shall be elected by a vote of the Fire Department personnel.

1.405 Firefighter duties. When called by the Chief, personnel shall report for duty immediately in the manner directed by the Chief. They shall be subject to call out at any time. They shall obey strictly the commands of others who have been appointed by the Chief to be in command temporarily. Personnel shall report for training as ordered by the Chief and as required by State of Iowa Minimum Training Standards.

1.406 Worker's compensation insurance. The City shall contract to insure against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for firefighters injured in the performance of their duties as firefighters. All department personnel shall be covered by the insurance contract.

1.407 Liability insurance. The City shall contract to insure against liability of the personnel of the Department for injuries, death, or property damage arising out of and resulting from the performance of departmental duties.

1.408 Fires and other emergencies outside city limits. The Department shall answer calls to fires and other emergencies outside the city limits in accordance with the Department's standard operating guidelines, contracts, mutual aid and other agreements.

1.409 Firefighters' association. The City recognizes the Winterset Fire Fighters Association, Inc., a nonprofit corporation established by the firefighters as a partner in promoting the welfare of firefighters, fire prevention activities, the enhancement of emergency response capabilities for the city and surrounding areas and the performance of civic, social and fund raising activities as specified in the corporation's articles of incorporation.

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1.501	CITY ADMINISTRATOR
1.502	ATTORNEY
1.503	STREET COMMISSIONER
1.504	SALARIES
1.505	MAYOR'S SALARY
1.506	BONDS
1.507	EXECUTION OF CONTRACTS
1.508	REMOVAL OF APPOINTEES

1.501 CITY ADMINISTRATOR.

A. Appointment. The City Administrator is to be appointed by a majority vote of the entire Council. The person so appointed shall hold office at the pleasure of the Council and shall be subject to removal by a majority vote of the entire Council.

B. Compensation. The City Administrator shall receive compensation, as the Council shall fix from time to time by resolution.

C. Duties. The duties of the City Administrator shall be as follows:

1. Shall be directly responsible to the Mayor and City Council for the Administration of municipal affairs. All departmental administration requiring attention of the Council shall be brought before the Council by the Administrator. All Council involvement in departmental administration initiated by the Council must be coordinated through the Administrator.
2. Supervise and direct the official duties of the various officials, departments and employees of the City specifically including the Assistant City Administrator and the Code Enforcement Officer and the street department, sewer department, fire department, building and zoning department and administration department; and, shall supervise and direct the police department as the Mayor may delegate at any time in writing. The City Administrator may delegate to the Assistant City Administrator the duty to supervise and direct the official duties of the various officials, departments and employees prescribed herein."
3. Responsible for the administration of all ordinances, resolutions and Council policies.
4. Supervise all accounting practices and procedures.

5. Serve as City Clerk and City Treasurer and perform all the duties of these positions as required by State Law or ordinance. These duties shall include the following:

- a) Oaths. Administer oaths of office to any City officer who is required to give an oath.
- b) Secretary. Attend all meetings of the Council and its committees; record and preserve a correct record of the proceedings of such meetings and publish the Council proceedings immediately after each regular or special meeting, in the manner required by law; publish all ordinances immediately after passage by Council and approval by the Mayor or as otherwise provided by law; keep an ordinance book, authenticating each ordinance and certifying as to the time and manner of passage, approval, and publication; and keep a resolution book, properly indexed. All minute, ordinance and resolution books are permanent records.
- c) Custody of funds of the treasury.
  - 1. Immediately upon receipt of moneys to be held in the custody of the treasurer and belonging to the municipality deposit the same in banks selected by the Council in amounts not exceeding the monetary limits authorized by the Council.
  - 2. File the Council's depository declaration with the County and State Treasurer.
  - 3. Reconcile the bank statements with the City books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
  - 4. Invest all idle funds and other funds as directed by the Council in accordance with law and make reports to the State Auditor as required by law.
  - 5. Act as treasurer of all Boards & Commissions.
    - d) Debt Service.
      - 1. Sign all evidence of indebtedness, coupons, or certificates as required by law of a City Clerk or Treasurer.
      - 2. Keep a register of all bonds and warrants outstanding and record all payments made of interest and principal thereon.
    - e) Records.
      - 1. Have custody and be responsible for the safekeeping of all records or documents in which the municipality is a party in interest unless otherwise specifically directed by law or ordinance. File and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto. Upon order of the Council, destroy all vouchers and minor records when over ten years old, except the permanent records specified for retention by law.

2. Copies of records. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of his duty, and furnish a copy to any citizen when requested upon payment of the allowable charge set in the law or resolution of Council.

f) Seal. Affix the seal of the corporation to those public documents or instruments which by law or ordinance are required to be attested by the affixing of the seal, or as directed by the Mayor or Council.

g) Petitions and Communications. Keep and file by number and date all communications and petitions directed to the Council or to the City generally. He shall endorse thereon the action of the Council taken on the matters presented in such communications and petitions.

h) Licenses and Permits. Issue all licenses and permits authorized by the Council, and keep a record thereof which shall show the date, number, and to who issued, and for what purpose.

i) Appointments. Keep a record of all appointments; notify all persons appointed by the Mayor or Council to office of such appointments and the time of taking office.

j) Elections. Perform all duties required of clerks by the election laws of the State, receive and forward nomination petitions, certify the calling of elections and perform those duties that the County commissioner of elections might delegate for the conduct of City elections.

6. Prepare the City's annual operating budget.

7. Supervise and coordinate the City's administrative policies and procedures, including personnel policies and purchasing procedures.

8. Continuous study and review of the City's operating procedures, organizations and facilities and recommending such fiscal and other policies to the Council as may be necessary to improve the City government.

9. Inform the Mayor and Council of the progress of programs and the status of City policies.

10. Advise the Mayor and Council of the financial condition and future needs of the City and make such recommendations as may be deemed advisable.
11. Attend all Council meetings unless excused by the Mayor.
12. Coordinate the preparation of ordinances, resolutions, and contracts with the City Attorney and consult with the City Attorney on legal matters.
13. Supervise and coordinate the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plan drawings, specifications and cost estimates for capital improvements, except those properties under control of the Utility Board of Trustees.
14. Employ and remove City employees for all City departments, except the Police, Park & Recreation, Utility Board and Public Library Departments, pursuant to the hiring and termination criteria approved by the City Council. These duties shall include the Police Department whenever the Mayor has delegated the supervision and direction of the Police Department to the City Administrator pursuant to subparagraph 2 hereof.
15. Supervise the accounting, collection and administrative services of the Board of Trustees of the Electric Power Plant and Waterworks and to act as the Council's liaison with the Board of Trustees.
16. Cooperate and advise in the management of any administrative agency, including the Park & Recreation Board and the Library Board of Trustees, and to act as the Council's liaison with these administrative agencies.
17. Study possible joint arrangements with municipal boards and commissions, make recommendations concerning such arrangements as mutually acceptable, and coordinate these arrangements as agreed upon.
18. Act on behalf of the City in the exercise and execution of all policies and programs in which the City is involved on a joint basis with any other governmental subdivision, including any subdivision of the state or federal government.

19. Assist the Mayor in any of his or her duties as requested by the Mayor and approved by the City Council.
20. Perform such other duties as may be directed by the Council.

1.502 ATTORNEY The City shall have a position of City Attorney to provide legal representation to the City in all matters requiring such representation or as directed by the City Council, which duties shall include, but not limited to, the duty to defend and prosecute all suits which the City is a party; to prosecute all appeals where the interest of the City requires such appeals; to prosecute suits for the violations of any ordinance when so requested to do so by the Mayor, City Council or any Committee or Board responsible for the oversight of such ordinance; to give advice to the City Council or to any Committee or Board of the City on legal questions relating to the affairs of the City; to draw all contracts to which the City is a party; and, execute such documents legal proceedings for any cause in any Court involving the City. The person appointed as City Attorney shall be currently admitted to the practice of law in the courts of the State of Iowa as provided by law and shall be a member in good standing with the Iowa State Bar Association. A person is not qualified for City Attorney while the person's license to practice law in this or any other state is suspended or revoked. The City Attorney shall be a part-time position which the person serving as the City Attorney may engage in the private practice of law. The City Council shall appoint the City Attorney. The City Attorney shall serve at the pleasure of the City Council. The compensation of the City Attorney shall be established by the City Council.

1.503 STREET COMMISSIONER. The Street Commissioner shall perform all duties required by the City Administrator and shall make all ordinary repairs on the streets and see that the same are kept in a safe condition for public travel.

1.504 SALARIES. The compensation of the City Administrator, Chief of Police and Street Commissioner shall be determined by resolution and not by ordinance.

1.505 MAYOR'S SALARY. The Mayor shall receive as compensation a salary of Four Thousand Five Hundred Dollars (\$4,500.00) per annum payable as other usual payments for salaried employees. In addition, the Mayor may receive an expense allowance in an amount determined by the Council

1.506 BONDS. All bonds required by any ordinance of the City shall be substantially in the form required by the statutes of the State of Iowa. The following officers of the City, before assuming the duties of their respective offices, shall give bond as provided by the laws of the State of Iowa in the amounts as follows:

The Mayor in the penal sum of \$2,500.00;  
The City Administrator in the penal sum of \$15,000.00;

1.507 EXECUTION OF CONTRACTS. The Mayor shall sign on behalf of the City all contracts made between the City and another party in all cases where contracts are authorized and directed by the Council, except cases where some other person or committee is authorized or directed so to do, and it shall be his/her duty to enforce the faithful performance of all such contracts. In all cases where contracts are executed, either by the Mayor, a committee or other person authorized, it shall be the duty of the officer, committee or person executing such contract on the part of the City, to immediately file such contract with the City Administrator and deliver to the other contracting party a copy thereof.

1.508. REMOVAL OF APPOINTEES.

a. All persons appointed to any City office including any board or commission shall be subject to removal as hereafter provided when any of the following occurs:

- i. The appointee fails to attend four (4) consecutive meetings, whether regular or special, of the Board or Commission to which appointment has been made; or
- ii. The appointee attends less than seventy (70) percent of the regular or special meetings of the Board or Commission held during any one (1) calendar year.

b. Attendance at any meeting shall be determined by the meeting minutes as recorded or approved by the board or commission.

c. The Secretary or Chairman of each city board or commission shall report to the City Administrator whenever any appointee has failed to meet the minimum attendance requirements of subparagraph a. above. The City Administrator shall forward the report to the officer or body making the appointment.

d. The officer or body making the appointment shall then cause to be issued a written removal order giving the reasons therefore and referring to this Code Section. A copy of the removal order shall be filed with the City Administrator. The removal order shall be mailed by certified mail through the United States Postal Service to the appointee at the appointee's last known address. The removal shall be final unless the appointee, within thirty (30) days of the date of mailing the removal order, requests a hearing before the council on all issues connected with the removal. The hearing request shall be made in writing filed with the City Administrator. The hearing shall be public unless the appointee requests a closed hearing in conformance with Chapter 21 of the Code of Iowa. The hearing shall be held within thirty (30) days of the date the request is filed unless the appointee and council agree upon a later date. After the hearing, the council may either reaffirm or rescind the removal order. The Council action on the appeal shall be deemed final unless the appointee, within thirty (30) days of the date of the Council's action on the removal, appeals the removal to the Iowa District Court in the manner provided by law.

1.509 EMPLOYEE RESIDENCY. The following positions within the City are hereby deemed to be essential employees who must establish legal settlement within the County of Madison in the State of Iowa commencing on or before the first anniversary date of the first date of employment with the City. The essential City employees are defined to be the City Administrator, Assistant City Administrator, all sworn peace officers of the City Police Department, and the employees within the Street Department. The term "legal settlement" shall mean having a continuous and permanent residency within Madison County, Iowa.

- 1.601 PARK & RECREATION BOARD CREATED
- 1.602 BOARD ORGANIZATION
- 1.603 DUTIES OF THE BOARD
- 1.604 REPORTS
- 1.605 RULES
- 1.606 PENALTIES

1.601 PARK & RECREATION BOARD CREATED. A Park & Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs, and encourage other programs, for the leisure time of the City's residents of all ages.

1.602 BOARD ORGANIZATION. The Board shall consist of five (5) members. The Board shall have at least three (3) members who reside within the corporate limits of the City and two members who may reside outside the corporate limits of the City but shall reside within the Winterset Community School District. Members shall serve without compensation but may receive their actual expenses. Vacancies shall be filled for the unexpired term of vacancy and such appointment shall be in the same manner as original appointments. The Board shall select its Chairperson as soon as practicable each calendar year. The board shall meet monthly

1.603 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation and to update and revise these plans as required, the Board shall have authority over the properties and personnel devoted to Parks & Recreation, subject to the limitation on expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for Park & Recreation operations. The Board shall cooperate with the City Administrator in the allotment of time of City employees for the Park & Recreation purposes. When ordering supplies, the Board shall follow purchasing procedures established by the Council for all departments of the City, and payment shall be made by the City Administrator on basis of invoices submitted and approved by the Board. In coordination with the City Administrator, the Board shall have the authority to employ a Park & Recreation Director, whose employment and salary shall be subject to, and conditioned upon, the approval of the Council.

1.604 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable or upon the request of the Council. Its revenues and expenditures shall be reported monthly by the City Administrator in the manner of other departmental expenditures, and a copy shall be provided to each Board Member and in the City Administrator's report to the Council.

1.605 RULES. The Board shall have power to make rules and regulations for the use of Park or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules and regulations by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

1.606 PENALTIES. Violation by any person of a Board rule which has been approved by the Council may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one (1) day may be appealed to the Board and then to the Council. The hearing before the Council shall be in accordance with the procedures adopted by the Council.

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- 1.701 PURPOSE
- 1.702 PUBLIC LIBRARY
- 1.703 LIBRARY TRUSTEES
- 1.704 QUALIFICATIONS OF TRUSTEES
- 1.705 ORGANIZATION OF THE BOARD
- 1.706 POWERS AND DUTIES
- 1.707 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY
- 1.708 NONRESIDENT USE OF LIBRARY
- 1.709 LIBRARY ACCOUNT
- 1.710 ANNUAL REPORT

1.701 PURPOSE. The purpose of this Chapter is to provide for the establishment of a Public Library for the City, and for the creation and appointment of the City Library Board of Trustees and to specify that Board's powers and duties.

1.702 PUBLIC LIBRARY. There is hereby established a Public Library for the City, to be known as "The Winterset Public Library".

1.703 LIBRARY TRUSTEES. The Board of Trustees of the Winterset Public Library, hereinafter referred to as the Board, shall consist of seven members. All Board Members are to be appointed by the Mayor with the approval of the Council.

1.704 QUALIFICATIONS OF TRUSTEES. The Board shall have at least five (5) members who reside within the corporate limits of the City and may have two (2) members who reside outside the corporate limits of the City, but who shall reside within the boundaries of the Winterset Community School district. All Members shall be at least Nineteen (19) years of age.

1.705 ORGANIZATION OF THE BOARD.

a. Terms of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July 1. Appointment shall be made every two (2) years of one-third of the Board Members, as nearly as possible, in order to stagger the terms.

b. Vacancies. The position of any trustee shall be vacant if the Member no longer resides in the City or if the Member is absent for six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies on the Board shall be filled by the appointments made by the Mayor, with the approval of the Council, and each newly appointed trustee shall fill out the unexpired term for which the appointed is made.

c. Compensation. Trustees shall receive no compensation for their services.

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1.706 POWER AND DUTIES. The Board shall have and exercise the following powers and duties:

- a. To meet and elect from its Members a president, secretary and such other officers as it deems to be necessary. The City Administrator shall serve as the Board Treasurer, but shall not be a Member of the Board.
- b. To have charge, control and supervision of the Public Library, its appurtenances, fixtures and rooms containing the same.
- c. To direct and control all the affairs of the Library.
- d. To employ a librarian and such assistants and other employees as may be necessary for the proper management of the Library, and to fix their compensation; provided, however, that prior to such employees shall have been fixed and approved by a majority of the Members of the Board voting in favor thereof.
- e. To remove by a two-thirds vote of the Board the librarian to provide procedures for the removal of assistants or employees for misdemeanors, incompetence or inattention to duty, subject, however, to the provisions of Chapter 70 of the Code of Iowa.
- f. To select, or to authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationary and supplies for the Library within the budgetary limit set by the Board and the City Council.
- g. To authorize the use of the Library by nonresidents of the City and to fix charges therefore.
- h. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with the ordinances and other laws, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
- i. To control the expenditure of funds appropriated for Library purposes by the Council and of moneys available by gift or otherwise.

j. To accept gifts of real property or personal property and devises or bequests, including trust funds; to take the title to said property in the name of the City; and, to expend the funds received by them for such gifts for the improvement of the Library in accordance with the approved budget.

k. To keep a record of its proceedings.

l. To have authority to make agreements with the local County Historical Associations, when such exist, to set apart the necessary room and to care for such articles as may come into the possession of the association. The Board is further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

1.707 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

a. Contracting. The Board may contract with any other City, School District, private or semi-private organization, institution of higher learning, township, County, or with the Trustees of any County Library District for the use of the Library by the respective residents.

b. Termination. Such contract may be terminated at any time by mutual consent of the contracting parties.

1.708 NONRESIDENT USE OF LIBRARY. The Board may authorize the use of the Library by nonresidents in accordance with regulations established from time to time by the Board.

1.709 LIBRARY BUDGET. The Council shall include in the annual City budget an appropriation for the operation and maintenance of the Library. The Board shall annually submit to the City Administrator a proposed budget.

1.710 ANNUAL REPORT. The Board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statement of the condition of the Library, the number of books added thereto, the number circulated, the amount of the fines collected, and the amount of money expended in the maintenance of the Library during the year, together with such further information as may be required by the Council.

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## 1.801 AIRPORT AUTHORITY

## 1.802 ANNUAL TAX LEVY

## 1.803 APPOINTMENT TO AIRPORT AUTHORITY BOARD

1.801 AIRPORT AUTHORITY. The City of Winterset does hereby create, ratify and confirm its membership and participation in the airport authority organized under Iowa Code Chapter 330A to be known hereafter as the Winterset Airport Authority.

1.802 ANNUAL TAX LEVY. A tax not to exceed 27 cents per \$1,000 assessed valuation shall be levied annually for a period not to exceed forty (40) years beginning in fiscal year 2015-16. Such levy shall be collected in the manner of other taxes and shall be allocated and paid to the Winterset Airport Authority for the exclusive and proper use of said authority, including but not limited to, the purchase of land, and the acquiring, establishing, constructing, enlarging, operating and maintaining of aviation facilities.

1.803 APPOINTMENT TO AIRPORT AUTHORITY BOARD. The City of Winterset shall appoint five (5) board Members to the Board of the Winterset Airport Authority as provided by Iowa Code Section 330A.5. The Board shall have at least three (3) members who reside within the corporate limits of the City and may have two (2) members who reside outside the corporate limits of the City, but who shall reside within Madison County, Iowa. The City Council shall appoint the members of the Board. The length and other conditions on the term of office of the Board members shall be as provided in Iowa Code Chapter 330A.

To establish staggered Board terms, the initial terms of office for the Board Members under City appointment shall be for two Board Members chosen by lot to have terms of office expiring on December 1, 2016 and three Board Members chosen by lot to have terms of office expiring on December 1, 2018.

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- 1.901 PURPOSE
- 1.902 TAX EXEMPTION AUTHORIZED
- 1.903 SCHEDULE OF EXEMPTION
- 1.904 APPLICATION FOR EXEMPTION

1.901 PURPOSE. The purpose of this Chapter is to authorize partial property tax exemption for industrial property on which improvements have been made, in accordance with the provisions of 427B of the Code of Iowa.

1.902 TAX EXEMPTION AUTHORIZED. The City of Winterset hereby provides for a partial tax exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Iowa Code Section 427A.1 (1) (e), as now or hereafter amended, within the City of Winterset, Iowa. This provision shall be subject to the definitions and requirements set forth in Chapter 427B of the Code of Iowa.

1.903 SCHEDULE OF EXEMPTION. The actual value added to industrial real estate for the reasons specified in 1.902 above is eligible to receive a partial exemption from taxation for a period of 5 years. "Actual value added" means the actual value as determined by the Assessor as of January 1<sup>st</sup> of each year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

- (a) for the first year - 75%
- (b) for the second year - 60%
- (c) for the third year - 45%
- (d) for the fourth year - 30%
- (e) for the fifth year - 15%

1.904 APPLICATION FOR EXEMPTION. An application for Exemption shall be filed by the owner of the property with the local Assessor by February 1<sup>st</sup> of the assessment year in which the value added is first assessed for taxation, for each project resulting in actual value added for which an exemption is claimed. Application of Exemption shall be made on forms prescribed by the Director of Revenue of the State of Iowa, supplying all information deemed necessary by said Director.

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| 1.1001 | PURPOSE                        |
| 1.1002 | TEN YEAR AMORTIZATION PERIOD   |
| 1.1003 | FIVE YEAR AMORTIZATION PERIOD  |
| 1.1004 | THREE YEAR AMORTIZATION PERIOD |

1.1001 PURPOSE. The purpose of this Chapter is to establish a period of amortization for public improvements for which there are special assessment conditional deficiencies. Said period of amortization is based on the useful life of the public improvement, but not to exceed a ten-year period.

1.1002 TEN-YEAR AMORTIZATION PERIOD. The period of amortization for public improvement projects for opening, establishing or grading streets, for the construction of portland cement concrete or asphalt concrete street improvements, storm sewers, sanitary sewers, water mains, pedestrian underpasses and overpasses, sewage pumping stations, disposal or treatment plants, drainage conduits, channels and levees, street lighting, parking facilities and appurtenant facilities, is hereby established as ten (10) years, to be calculated commencing from the date of adopting by the City Council of the resolution accepting the completed public improvements.

1.1003 FIVE-YEAR AMORTIZATION PERIOD. The period of amortization for public improvements for construction or reconstruction of sidewalks is established at five (5) years, to be calculated commencing from the date the completed project is accepted by the City Council.

1.1004 THREE-YEAR AMORTIZATION PERIOD. The period of amortization for public improvements for the repair of street grading, for street surfacing with oil and gravel, or for the removal of diseased or dead trees is established at three (3) years, to be calculated commencing from the date of acceptance of the completed project by the City Council.

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- 1.1101 URBAN REVITALIZATION AREA  
1.1102 URBAN REVITALIZATION PLAN

1.1101 Urban Revitalization Area. The entire area within the corporate boundaries of the City of Winterset, Iowa, except that area located within the Cedar Woods Urban Revitalization Area, as established and existing between July 1, 1988 and December 31, 2018 be and is hereby declared to be an urban revitalization area pursuant to Iowa Code Chapter 404.

1.1102 Urban Revitalization Plan. The Urban Revitalization Plan for the City of Winterset, Iowa, dated November 4, 2013, on file in the Office of the City Administrator, be and is hereby declared to be the Urban Revitalization Plan for that area of the City of Winterset, Iowa designated in Section 1.1101.

1.1201	PURPOSE
1.1202	DEFINITIONS
1.1203	PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA
1.1204	GENERAL POLICY ON FINANCING PUBLIC IMPROVEMENTS RELATED TO LOW INCOME HOUSING AND RESIDENTIAL DEVELOPMENT
1.1205	PROCEDURES FOR OBTAINING TAX INCREMENT FINANCING OF RESIDENTIAL INFRASTRUCTURE IMPROVEMENTS
1.1206	CITY PARTICIPATION FACTORS
1.1207	BOND ISSUANCE FACTORS

1.1201 PURPOSE. The purpose of this Chapter is to provide for the division of taxes levied on the taxable property in designated Urban Renewal Areas of the City of Winterset, Iowa, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this Chapter in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Winterset to finance projects in such area.

1.1202 DEFINITIONS. For use within this Chapter the following terms shall have the following meanings:

"City" shall mean the City of Winterset, Iowa.

"County" shall mean Madison County, Iowa.

"Urban Renewal Area" shall mean the urban renewal areas as described in the following listed ordinances:

1. Winterset Urban Renewal Area, as designated in Ordinance No. 378, an ordinance providing for the division of taxes levied on taxable property in the Winterset Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted on June 19, 1989.

2. 1991 Addition to the Winterset Urban Renewal Area, as designated in Ordinance No. 400, an ordinance providing for the division of taxes levied on taxable property in the 1991 Addition to the Winterset Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted on December 16, 1991.

3. West Court Urban Renewal Area, as designated in Ordinance No. 447, an ordinance providing for the division of taxes levied on taxable property in the West Court Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted March 25, 1997.

4. 1997 Addition to the Winterset Urban Renewal Area, as designated in Ordinance No. 456, an ordinance providing for the division of taxes levied on taxable property in the 1997 Addition to the Winterset Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted January 19, 1998.

5. 1998 Addition to the Winterset Urban Renewal Area, as designated in Ordinance No. 460, an ordinance providing for the division of taxes levied on taxable property in the 1998 Addition to the Winterset Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted July 6, 1998.

6. West End Townhomes Urban Renewal Area, as designated in Ordinance No. 483, an ordinance providing for the division of taxes levied on taxable property in the West End Townhomes Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted August 7, 2000.

7. Corkrean & Watts Addition Urban Renewal Area, as designated in Ordinance No. 510, an ordinance providing for the division of taxes levied on taxable property in the Corkrean & Watts Addition Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted June 16, 2003.

8. Crystal Falls Addition Urban Renewal Area, as designated in Ordinance No. 511, an ordinance providing for the division of taxes levied on taxable property in the Crystal Falls Addition Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted July 7, 2003.

9. 2006 Addition to the Corkrean & Watts Addition Urban Renewal Area, as designated in Ordinance No. 544, an ordinance providing for the division of taxes levied on taxable property in the 2006 Addition to the Corkrean & Watts Addition Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted October 16, 2006.

10. Arbor Park Urban Renewal Area, as designated in Ordinance No. 545, an ordinance providing for the division of taxes levied on taxable property in the Arbor Park Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted October 16, 2006.

11. Cedar Woods Urban Renewal Area, as designated in Ordinance No. 547, an ordinance providing for the division of taxes levied on taxable property in the Cedar Woods Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted November 20, 2006.

12. North Stone Village Urban Renewal Area, as designated in Ordinance No. 552, an ordinance providing for the division of taxes levied on taxable property in the North Stone Village Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted June 18, 2007.

13. Nelson Acres Urban Renewal Area, as designated in Ordinance No. 571, an ordinance providing for the division of taxes levied on taxable property in the Nelson Acres Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted March 7, 2011.

14. 2015 Addition to the Arbor Park Urban Renewal Area, as designated in Ordinance No. 594, an ordinance providing for the division of taxes levied on taxable property in the 2015 Addition to the Arbor Park Urban Renewal Area of the City of Winterset, Iowa, pursuant to Section 403.19 of the Code of Iowa, adopted May 15, 2015.

15. North Stone Urban Renewal Area #2, as designated in Ordinance No. 601, an ordinance providing for the division of taxes levied on taxable property in the North Stone Urban Renewal Area #2, pursuant to Section 403.19 of the Code of Iowa, adopted June 20, 2016.

16. 2017 Birchwood Estates Housing Urban Renewal Area #2, as designated in Ordinance No. 613, an ordinance providing for the division of taxes levied on taxable property in the 2017 Birchwood Estates Housing Urban Renewal Area #2, pursuant to Section 403.19 of the Code of Iowa, adopted August 21, 2017.

17. 2017 Casper Commercial Urban Renewal Area, as designated in Ordinance No. 614, an ordinance providing for the division of taxes levied on taxable property in the 2017 Casper Commercial Urban Renewal Area #2, pursuant to Section 403.19 of the Code of Iowa, adopted August 21, 2017.

18. 2017 Stover Addition Urban Renewal Area (Plat 1), as designated in Ordinance No. 622, an ordinance providing for the division of taxes levied on taxable property in the 2017 Stover Addition Urban Renewal Area (Plat 1), pursuant to Section 403.19 of the Code of Iowa, adopted March 5, 2018.

19. 2017 Arbor Park Urban Renewal Area #3, as designated in Ordinance No. 623, an ordinance providing for the division of taxes levied on taxable property in the 2017 Arbor Park Urban Renewal Area #3, pursuant to Section 403.19 of the Code of Iowa, adopted March 5, 2018.

20. 2017 Corkrean & Watts Addition Urban Renewal Area #2 (Plat 6), as designated in Ordinance No. 624, an ordinance providing for the division of taxes levied on taxable property in the 2017 Corkrean & Watts Addition Urban Renewal Area #2 (Plat 6), pursuant to Section 403.19 of the Code of Iowa, adopted March 5, 2018.

21. 2017 North Stone Urban Renewal Area #3, as designated in Ordinance No. 625, an ordinance providing for the division of taxes levied on taxable property in the 2017 North Stone Urban Renewal Area #3 pursuant to Section 403.19 of the Code of Iowa, adopted March 5, 2018.

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1.1203. PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA. After the initial effective date of this Chapter, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1, 1988 for Area #1 and as of January 1, 1990 for Area #2, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the initial effective date of this Chapter, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll as of January 1, 1988 for Area #1 and as of January 1, 1990 for Area #2, shall be used in determining the assessed valuation of the taxable property in the Urban Renewal Area on the effective date.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable

property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

1.1204. GENERAL POLICY ON FINANCING PUBLIC IMPROVEMENTS RELATED TO LOW INCOME HOUSING AND RESIDENTIAL DEVELOPMENT. The City policy with respect to any urban renewal area within the City established upon the determination that the area is an economic development area shall be that a division of revenue as provided in Iowa Code Section 403.19 shall not be allowed for the purpose of providing or aiding in the provision of public improvements related to housing and residential development unless the City is assured the project will include assistance for low and moderate income family housing. Subject to the foregoing, the City policy is to offer on a case-by-case basis the use of Tax Increment Financing to Subdivider's as a means to finance the installation of public infrastructure improvements within residential subdivisions being developed in the City in either the R-1 or R-2 Residential Zoning Classifications. Tax Increment Financing (T.I.F.) funds shall only be used to install public infrastructure improvements and extensions such as sanitary sewers, water mains, streets, and storm sewers which are to be dedicated to the public upon final acceptance by the City of the Subdivision Plat in accordance with Chapter 10 of Title IV of this Municipal Code. The City debt obligation represented by the Tax Increment Financing Bond will NOT be backed by the full faith and credit of the City.

The City policy is that any residential development which occurs within any economic development area that has been designated as a Tax Increment Financing district; has received the benefit of the City participation through Tax Increment Financing; and, has Tax Increment debt outstanding requiring the payment of taxes to service the debt, will not be eligible for tax abatement as may otherwise be available through the City's Urban Revitalization Plan.

The City policy is to participate through Tax Increment Financing in any residential subdivision project with the Subdivider in a fair and equal manner, provided the Subdivider meets all criteria, and otherwise complies with, all federal, state and local laws and regulations affecting the project.

The City policy is that the division of revenue under Iowa Code Chapter 403 for each residential project under this Code Chapter shall be limited to tax collections for ten (10) fiscal years beginning with the second fiscal year after the year in which the City first certifies to the County Auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of the revenue in connection with the residential project. However, with the approval of the governing bodies of all other affected taxing districts, the City may extend the division of revenue under Iowa Code Section 403.19 for up to five (5) years if necessary to adequately fund the project.

1.1205. PROCEDURES FOR OBTAINING TAX INCREMENT FINANCING OF RESIDENTIAL INFRASTRUCTURE IMPROVEMENTS. Any Subdivider seeking the City participation through Tax Increment Financing in the cost of public improvements within a residential subdivision shall file with the City Administrator a written application containing or providing the following:

- a. The preliminary subdivision plat complying with the requirements of Chapter 10 of Title IV of this Code as approved by the City Planning and Zoning Commission.
- b. A legal description of the real estate to be developed.
- c. A description of the planned public improvements with construction plans including costs estimates prepared by a registered engineer.
- d. The projected amount of financial assistance being requested through the use of Tax Increment Financing to finance the proposed public improvements and to provide benefit for low and moderate income housing in accordance with City policy. This estimate shall also include the City's legal and administrative fees and costs described in subparagraph 1.1206(c) below.
- e. The number of residential lots to be improved and sold in the Subdivision including the sale price for each lot.

f. A statement signed by the Subdivider establishing the maximum sale price for each lot in the Subdivision. Until the lot is improved with the construction of a residential dwelling unit, this stated price shall fix the highest amount that the Subdivider, their successors and assigns may sell or transfer such lot. This maximum lot price shall be in effect during the term the Tax Increment Financing Bond is outstanding.

g. A statement itemizing the total development cost including all legal, engineering and administrative fees per lot within the subdivision.

h. A written, unconditional commitment from a financial institution ready, willing, and able to buy the Tax Increment Financing Bond once issued by the City for this residential project.

1.1206. CITY PARTICIPATION FACTORS. The City determination as to whether or not to participate in a proposed residential subdivision project shall be governed by these factors:

a. The source for low and moderate-income family housing assistance shall be one or more of the following:

i. The Tax Increment Financing bond proceeds;

ii. The lump sum payment from the Subdivider or the Subdivider's financial institution tendered to the City upon issuance of the Tax Increment Financing bond;

iii. The periodic payments from the Subdivider to the City in a stipulated amount of money and term of payment, which sum shall be unconditionally guaranteed by the Subdivider's financial institution; or,

iv. The annual distributions from the Tax Increment Financing revenues pursuant to Iowa Code Section 403.19 pertaining to this Urban Renewal Area.

b. The amount of the Tax Increment Financing Bond shall be limited to a sum equal to seventy percent (70%) of the costs of the infrastructure improvements; all the legal and administrative costs incurred by the City for this project; and, any funds to be dedicated for low and moderate-income housing assistance.

c. The City shall be reimbursed from the bond proceeds for its legal and administrative costs incurred or anticipated in the future relating to the residential project such as the costs of amending the Urban Renewal Plan to include the subdivision as an Urban Renewal Area, bond issuance costs, and fees of the City Attorney and City Engineer.

d. The City participation through Tax Increment Financing in any project will be contingent upon the City's review of the City's Debt Limit Capacity; review of the City current and future debt obligations (which count towards that debt limit); and, consideration of the effect the proposed participation will have on that debt limit in the foreseeable future.

e. The policy exceptions, if any, requested by the Subdivider, including any reduction in the amount of funds to be provided for low and moderate-income housing assistance.

f. The City participation may be subject to such terms and conditions as deemed necessary or appropriate by the City for the residential project. In addition, the City participation may be revoked or rescinded by the City prior to the issuance of the Tax Incremental Financing bonds for noncompliance by the Subdivider with federal, state, or local laws and regulations affecting the residential project or for failing to act timely on matters material to the residential project or for failing to abide by any agreements or understandings with the City.

1.1207. BOND ISSUANCE FACTORS. The City policy on the Tax Increment Financing Bonds is as follows:

a. The City is to issue, either directly to the Subdivider or to a financial institution provided by the Subdivider, the tax increment revenue bonds payable solely from incremental property tax revenues produced from the Subdivider's residential subdivision. This bond will be a "pure" tax increment revenue bond and will not be a general obligation of the City.

b. The City will receive the bond proceeds and be responsible for the disbursement of these funds.

c. The City will disburse bond funds directly to the contractor(s) installing the public improvements in the residential subdivision in an amount equal to ninety-five percent (95%) of the registered engineer's certified pay estimate for the construction services being rendered. The final disbursement including the retainage shall be upon the registered engineer's certification of construction completion and compliance with City construction specifications and of acceptance of the public improvement as part of the subdivision by the City in accordance with Chapter 10 of Title IV of this Code.

d. Any surplus bond funds, remaining after full payment of the actual costs, shall be deposited into the City debt service fund for retirement of the Tax Increment Bond.

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1.1301	MUNICIPAL INFRACTIONS
1.1302	APPLICABLE CODE SECTIONS
1.1303	CRIMINAL PENALTIES
1.1304	APPLICABLE CODE SECTIONS

1.1301 MUNICIPAL INFRACTIONS. Except as is expressly provided in Code Section 1.1302 below, any person including corporations or other entities who violate any provisions of this City Code, as now or hereafter enacted or amended, commits a municipal infraction under Iowa Code Section 364.22 and shall have civil judgment against them not to exceed five hundred dollars (\$500.00) for the first offense; not to exceed seven hundred fifty dollars (\$750.00) for each repeat offense; and, any or all additional relief provided by Iowa Code Section 364.22 for any offense. This Section shall not apply to any violation which is also a felony or misdemeanor by state law. Each day that a violation occurs or is permitted to exist by the violator is separate offense. This judgment against the violator does not preclude the City from the criminal prosecution of a violation of this City Code as now or hereafter enacted or from seeking alternative relief to the civil penalty from the Court either in the same action or other separate action.

1.1302 APPLICABLE CODE SECTIONS. Section 1.1301 of this Code shall not apply to the following provisions of this City Code:

<u>TITLE</u>	<u>CHAPTER</u>	<u>SECTIONS</u>
Title I	Chapters 1-12	all
Title V	Chapter 1	5.102 - 5.131 5.135 - 5.146
Title V	Chapter 2	all

1.1303 CRIMINAL PENALTIES. Except as is expressly provided in Code Section 1304 below, any person including corporations or other entities who violate any provision of this City Code as now or hereafter enacted or amended shall, upon conviction be guilty of a Simple Misdemeanor punishable by a fine in accordance with Iowa Code Section 903.1(a) for Simple Misdemeanors, but said person shall not be subject to the possibility of imprisonment under this City Code.

In the event the violation of this City Code is a Scheduled violation, the person shall be fined in accordance with the associated Scheduled Fine as expressly provided for by Code Section 1.1305. In the event the violation of this City Code is an Unscheduled violation, the person shall be fined no more than the maximum amount allowed as provided by law, but no less than Sixty-five Dollars (\$65.00).

1.1304 APPLICABLE CODE SECTIONS. Section 1.1303 of this Code shall not apply to the following provisions of this City Code:

<u>TITLE</u>	<u>CHAPTER</u>	<u>SECTIONS</u>
Title I	Chapters 1 - 5	all
Title I	Chapter 6	1.601-1.605
Title I	Chapters 7 - 12	all
Title V	Chapter 1	5.102-5.131
Title V	Chapter 1	5.135-5.146
Title V	Chapter 2	all
Title V	Chapter 3	all

1.1305 IOWA CODE CHAPTER INCORPORATION BY REFERENCE. Pursuant to Iowa Code Section 380.10 the City of Winterset does hereby establish, declare and adopt by reference the following sections from Iowa Code Chapter 805 whose subject matter concerns citations in lieu of arrest to be applied within the City of Winterset, Iowa:

<u>Municipal Code Section</u>	<u>Iowa Code Section</u>	<u>Subject Matter</u>
1.805.8	805.8	Scheduled Violations
1.805.8A	805.8A	Motor Vehicle and Transportation Scheduled Violations

1.1401 PURPOSE  
1.1402 POLICE RESIDENCY

1.1401 PURPOSE. The purpose of this Chapter is to provide rules for the administration of the City Police Department.

1.1402 POLICE RESIDENCY. All sworn peace officers of the City Police Department, except the Chief of Police and Assistant Chief of Police, shall have and maintain their primary place of residence within forty-five (45) minutes travel time of the Winterset city limits as soon as practicable after their date of employment, but in no event later than one year from their date of employment. An employee's primary place of residence shall mean the place where the employee actually lives and which the employee declares to be the employee's home with the intent to remain there indefinitely. Travel time shall be determined by the Chief of the Department, or designee of the Chief of the Department, by using the most direct route, under normal driving conditions and traveling within the speed limits.

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- 1.1501 TAX IMPOSED
- 1.1502 DEFINITION
- 1.1503 COLLECTION AND USE

1.1501 TAX IMPOSED. A hotel and motel tax at a rate of seven percent (7%) shall be imposed upon the gross receipts from the renting of sleeping rooms, apartments, or sleeping quarters in a 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 guests of a religious institution if the property is exempt under Iowa Code Section 427.1, subsection 8, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

1.1502 DEFINITIONS. "Renting" and "Rent" shall include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarter, or their use. However, the tax shall not apply to the gross receipts from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

1.1503 COLLECTION AND USE. The tax imposed by this Chapter shall be remitted by the person or company responsible for the same to the Iowa Director of Revenue and Finance in the manner provided by the laws of the State of Iowa. All revenues received by the City from the imposition of the hotel and motel tax shall be used in accordance with the provisions of the laws of the State of Iowa.

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| 1.1601 | INTERNATIONAL FRIENDSHIP COMMISSION |
| 1.1602 | COMMISSION ORGANIZATION             |
| 1.1603 | COMMISSION POWERS AND DUTIES        |
| 1.1604 | COMMISSION REPORTS                  |

1.1601 INTERNATIONAL FRIENDSHIP COMMISSION. A department of the City of Winterset, Iowa be and is hereby created to be known as the International Friendship Commission to advise and assist the city council on all matters pertaining to the coordination and facilitation of relationships with citizens and communities in other countries around the world; the development of programs to enable and encourage such relationships; and, to develop positive relationships with other city governments in these countries.

1.1602 COMMISSION ORGANIZATION. The Commission shall consist of five (5) members. The Members shall have at least three (3) members who reside within the corporate limits of the City and may have two (2) members who reside outside the corporate limits of the City, but who shall reside within Madison County, Iowa.

1.1603 COMMISSION POWERS AND DUTIES. The Commission shall have the responsibility to plan, coordinate and facilitate all visits between citizens of this community and the citizens of other similar cities from other countries; to encourage positive relations between this city and other similar cities from other countries; and, to develop any necessary programs to encourage and promote such activities. The Commission shall have the authority to create and submit to the City Council for approval in the same manner as other City departments an annual budget for its activities; to generate revenues and expend funds in the same manner as other City departments; and, to employ a director whose employment, salary and duties shall be subject to the approval of the City Council. In addition, the Commission shall have the responsibility to promptly report all receipts and expenditures and submit any invoices evidencing these transactions to the City Administrator and to be guided by the City Administrator in all matters involving the receipt and expenditure of its funds.

1.1604 COMMISSION REPORTS. The Commission shall submit to the City Administrator directed to the City Council such written reports of its activities as the Commission deems advisable from time to time or such reports upon the request of the City Council.

1.1701	Tree Commission Created
1.1702	Tree Commission Organization
1.1703	Tree Commission Authority
1.1704	Duties of the Tree Commission

1.1701 TREE COMMISSION CREATED. A Tree Commission is hereby created and established for the City of Winterset.

1.1702 TREE COMMISSION ORGANIZATION. The Tree Commission shall consist of five members. At least three (3) of the Tree Commission members shall reside within the corporate city limits of the City of Winterset. Two (2) members of the Tree Commission may reside outside the corporate city limits of the City of Winterset but shall reside within the Winterset Community School District. All Tree Commission members shall be appointed by the Mayor with approval of the City Council for staggered three-year terms. Each term shall commence on January 1<sup>st</sup>. Vacancies shall be filled in the same manner as the original appointments. Members shall serve without compensation but may receive reimbursement for any actual expenses. The Tree Commission shall select its chairperson each January. The Tree Commission shall meet monthly or as frequently as may be required. The Director of the Park and Recreation Board, or his/her designee, shall serve as an additional member of the Tree Commission in an ex officio capacity with no voting privileges.

1.1703 TREE COMMISSION AUTHORITY. The Tree Commission shall have the authority to establish guidelines for the care, preservation, trimming, planting, replanting, removal, or disposal of trees and other landscape plantings within street rights-of-ways, parks and public places to ensure safety and to preserve and enhance the aesthetics of such public places. Such guidelines developed by the Tree Commission shall be subject to approval by the City Council and shall constitute the official guidelines for the City. The Tree Commission, when requested by the Council or as needed, shall review and update these guidelines and make findings and recommendations to the Council for consideration. The Tree Commission shall serve as the appeal board if disputes arise regarding the applicability of the guidelines to a particular tree situation. Any aggrieved party who disputes the applicability of the guidelines may appeal the decision to the Tree Commission.

1.1704 DUTIES OF THE TREE COMMISSION. The Tree Commission shall serve as an advisory resource for City officials, staff, and the community at large, by providing information, education, recommendations and support to promote practices which will lead to a healthy urban forest (both public and private) and desirable public landscaping throughout the City. The Tree Commission may coordinate such activities as an educational programs for the community, residential tree program, conducting tree inventories in community, tree planting day, seeking grants or donations, and maintaining a list of desirable and undesirable trees for City street rights-of-ways, parks and public places.

- |               |  |
|---------------|--|
| CHAPTER ONE   | - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS |
| CHAPTER TWO   | - DITCHES AND DRAINS                           |
| CHAPTER THREE | - REGULATION & LICENSING OF PAWNSHOPS          |

TITLE II                    BUSINESS AND OCCUPATION

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2.101	LICENSE REQUIRED
2.102	DEFINITIONS
2.103	EXEMPTIONS
2.104	APPLICATION FOR LICENSE
2.105	ISSUANCE OF LICENSE
2.106	FEES
2.107	PROHIBITIONS
2.108	DISPLAY OF LICENSE
2.109	LICENSE NOT TRANSFERABLE
2.110	REVOCATION OF LICENSE
2.111	EXPIRATION OF LICENSE
2.112	PENALTY
2.113	EXEMPTION FOR COVERED BRIDGE FESTIVAL SELLING
2.114	EXEMPTION FOR SPECIAL COMMUNITY EVENTS
2.115	TRANSIENT MERCHANTS IN THE DOWNTOWN COMMERCIAL DISTRICT
2.116	APPEALS

2.101 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in this City without first obtaining a license as herein provided shall be in violation of the chapter.

2.102 DEFINITIONS. For use within this chapter the following terms are defined:

a. "Peddler" is any person carrying goods or merchandise who sells or offers for sale such goods or merchandise to the general public for immediate delivery. Not included are persons who sells or offers for sale goods or merchandise to local merchants or retailers who will retail the products to the general public.

b. "Solicitor" is any person who solicits or attempts to solicit from the general public order for goods or merchandise to be delivered at a future date. Not included are persons who solicit or attempts to solicit orders from merchants or retailers who will retail the product to the general public.

c. "Transient merchant" is any person who engages in a temporary or itinerant merchandising business and who may in the course of such business hire, lease, or occupy any building or land.

2.103 EXEMPTIONS. Farmers or gardeners selling their produce, newspaper carriers, students engaged in activities authorized or sponsored by their school, religious, charitable and nonprofit organizations shall be excluded from the application of this chapter.

2.104 APPLICATION FOR LICENSE. An application in writing shall be filed with the City Administrator for license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address, if any. 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 places of such business, and the length of time sought to be covered by the license. In the case of the transient merchant, the applicant shall in addition provide the following information:

- a. A copy of the applicant's sales tax permit with the State of Iowa;
- b. A list of all cities and counties which have granted the applicant a permit within the past year;
- c. Proof of ownership of the premises where the business is to be operated or, proof of the lease agreement with the owner of the premises, if applicable; and
- d. Proof of liability insurance in an amount of at least three hundred thousand dollars (\$300,000) for any one occurrence covering all business invitees; and
- e. A sketch of the premises showing the exact location of the structure on the premises and showing the location and size of the off-street parking areas, if applicable; and,
- f. Proof of proper fire extinguisher apparatus for the premises, if applicable.

All transient merchants shall provide at least two (2) off-street parking spaces for its business invitees. All transient merchants shall operate at locations within the following Zoning Districts:

All types of Commercial Districts;  
All types of Transition Districts;  
Industrial District; and,  
The following Special Exception Uses in R-2 Residential Districts: places of worship and associated public gathering facilities; educational buildings and institutions; and, hospitals, medical and dental clinics

TITLE II CHAPTER 1 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS  
and their related professional offices and services,  
nursing homes, boarding houses, clubs, and lodge  
organizations.

2.105 ISSUANCE OF LICENSE. Upon receipt of an application, the City Clerk shall forward to the chief of police or designee, who shall, within three (3) working days, recommend approval or disapproval of the issuance after investigation of the applicant's reputation and character and license application content. Such investigation may include a complete criminal history records check for the applicant. Applicant shall fully cooperate in providing any additional information necessary for such records check to be completed and shall pay any fees related thereto.

If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application disapproval and reasons therefore and return said application to the city clerk, who shall notify the applicant of said disapproval and that no license will be issued.

If, as a result of such investigation, the applicant's character or business responsibility is found to be satisfactory, the chief of police shall endorse on such application approval and return the same to the city clerk who shall thereafter issue the license, subject to the terms and conditions of this article.

2.106 FEES. Every licensee shall pay the following fee before a license shall be issued:

- a. For one day or any part thereof \$50.00 per day;
- b. For one week \$300.00 per week.

2.107 PROHIBITIONS. No person shall engage or attempt to engage in peddling, soliciting or in the business of a transient merchant at any time on any City owned property or City right-of-way, except as may be allowed by this chapter.

No person, whether registered or not registered with the City according to the provisions of this chapter, while soliciting, peddling or selling shall enter upon any premises in the City where the owner, occupant or person legally in charge of the premises has posted, at the entry of the premises or at the entry of the principal building on the premises a sign bearing the words "No Peddlers", "No Solicitors" or words of similar import.

Any person issued a license pursuant to the chapter shall immediately remove themselves from private property when requested to do so by the owner or occupant thereof and, while offering or

TITLE II CHAPTER 1 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS  
exposing items for sale on said private property, shall not in any manner conduct themselves in such a manner as to violate any provision of this Code.

2.108 DISPLAY OF LICENSE. Each solicitor, peddler, and transient merchant shall at all times while doing business in this City, keep in their possession the license provided for in Section 2.105 of this chapter, and shall upon request exhibit the license as evidence that they have complied with all requirements of this chapter.

2.109 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation.

2.110 REVOCATION OF LICENSE. The City Administrator, or sworn police officer, may revoke any license issued under this chapter where the licensee in the application for the license or in the course of conducting his business has made fraudulent or incorrect statements, has violated any Winterset Municipal Code section, or has violated this chapter or has otherwise conducted his business in an unlawful manner.

2.111 EXPIRATION OF LICENSE. All licenses granted for a peddler or solicitor under this ordinance shall be valid daily between 8:00 am and 6:00 p.m. excluding Sundays. All licenses granted under this ordinance shall expire at 6:00 p.m. of the last day for which the license is issued. Licenses issued to transient merchants under this chapter shall not be subject to the time limits prescribed in this section.

2.112 PENALTY. Anyone violating any of the provisions of this chapter shall, upon conviction, be guilty of a simple misdemeanor punishable as provided by law. Each day that a violation continues to exist shall constitute a separate offense.

2.113 EXEMPTION FOR COVERED BRIDGE FESTIVAL SELLING. The Winterset Chamber of Commerce, either directly or through its Covered Bridge Festival Committee, shall file with the City Administrator a list of sellers of items which are approved by the Covered Bridge Festival Committee as part of the Madison County Covered Bridge Festival. The sellers set forth on this list shall be exempt from this chapter during the Covered Bridge Festival.

2.114 EXEMPTION FOR SPECIAL COMMUNITY EVENTS.

a. General Conditions. The Mayor and/or City Council are authorized to appoint a Committee responsible for the planning and organization and conduct of special community

TITLE II CHAPTER 1 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

events involving the assemblage of large number of people and the sale of goods and/or services by peddlers or transient merchants to the assemblage. These special community events include the Des Moines Register Annual Great Bicycle Ride Across Iowa (RAGBRAI) which could involve accommodating an assembly of ten thousand (10,000) persons or more or any other event whose size raises public health and safety concerns. These special community events shall be allowed provided that all of the following occur:

1. The special events committee applies for and obtains from the Mayor, if necessary, the special street designation authorized by Municipal Code Section 6.404 for the special event.
2. The special events committee files with the City Administrator a list of peddlers and/or transient merchants and the item or items of goods and/or services being sold by each vendor during the special event. The peddlers and/or transient merchants named on this list and who have the approval of the special events committee shall be exempt from the Chapter during the special year.
3. The special events committee files with the City Administrator a site plan showing or depicting the location of the temporary stands, if any, authorized for the sale of goods and/or services during the special event.
4. The special events committee files with the City Administrator a schedule of fees charged by the committee to each listed peddler and/or transient merchant categorized as to food and non-food vendors.
5. The special events committee shall require each permittee to have liability insurance coverage for the special event insuring the public against loss for any
6. Accident or occurrence caused by the permittee in the amount of One Hundred Thousand Dollars (100,000.00).

TITLE II CHAPTER 1 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

7. The special events committee and/or the City is authorized to revoke any permit at any time in the event the permittee is not in compliance with this Code Section.

b. Special event peddler and transient merchant duties.

1. No person subject to this Chapter shall provide or sell goods and/or services including food and beverages to the public during a designated special event subject to the provisions of this Code Section unless the person has first obtained a Special Events Permit from the special events committee appointed by the Mayor and/or City Council as provided by this Code Section and no person subject to this Chapter shall continue to provide or sell goods and/or services including food and beverages to the public after the special events permit has been revoked by the special events committee and/or the City.

2. No person subject to this Chapter shall provide or sell goods and/or services including food and beverages to the public during a designated special event except at a location determined by the special events committee and shall sell only those goods and/or services specifically authorized by the special events committee.

3. No person subject to this Chapter shall provide or sell food and/or beverages to the public during a designated special event unless the permittee complies with the Iowa Department of Health Rules and Regulations governing the sale of food and/or beverages for consumption on the premises.

4. Each permittee is required to be able to show proof of liability insurance coverage to any City Official upon demand. The failure to show such proof of insurance shall cause the immediate revocation of the special events permit without further notice.

2.115 TRANSIENT MERCHANTS IN THE DOWNTOWN COMMERCIAL DISTRICT. Transient Merchants seeking a permit to conduct business in the Downtown Commercial District shall be exempt from the parking requirements set forth in Section 2.104.

The transient merchant shall conduct business at a location immediately adjacent to the premises identified in the application and shall not occupy more than three (3) parking spaces.

TITLE II CHAPTER 1 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

2.116 APPEALS. Any person aggrieved by the action of the special events committee or of the City shall have the right to appeal that action to the Mayor. The appeal must be filed with the City Administrator in writing within seven (7) days of the date of the action aggrieved. The appeal must state each and every ground for the appeal and provide a current mailing address and daytime telephone number. The Mayor shall set a date of hearing on the appeal which is to be within two (2) weeks of the date of the appeal and notify the aggrieved party of the time and date of the appeal hearing. The aggrieved party may, but need not, appear at the hearing. The Mayor shall conduct the hearing in an informal manner and shall consider all relevant evidence. The Mayor shall within three (3) days of the appeal hearing enter a "Formal Decision" on the appeal. This decision shall be final in all respects unless the aggrieved party files a petition for writ of Certiorari with the Iowa District Court for Madison County. The action of the special events committee or of the City shall not be stayed during the pendency of the appeal.

2.201	DITCHES AND DRAINS IN STREETS
2.202	METHOD OF DIGGING
2.203	BARRICADES AT NIGHT
2.204	REFILLING
2.205	COVERING
2.206	RESTORING PAVEMENT
2.207	COMPLETION OF WORK
2.208	RESTORING DRAINS, SEWER AND WATER PIPES
2.209	DUTY TO COMPLY

2.201 DITCHES AND DRAINS IN STREETS. No person shall dig any ditches or make any drains in any of the streets or alleys of the city except in compliance with the provision of this chapter.

2.202 METHOD OF DIGGING. Ditches and drains and other excavations shall be so constructed as to leave at least one third of the traveled part of the street or alley open to public travel during the progress of the work. The dirt from the excavation or ditch shall be neatly and compactly piled by the side thereof in such manner as to interfere as little as possible with the public use of the highway.

2.203 BARRICADES AT NIGHT. All ditches or excavations left unfilled during the night shall be securely covered or shall be surrounded with a barricade at least three feet high; and in either case the location of such excavation shall be indicated during the hours of darkness by flashing lights at the ends and along the course thereof.

2.204 REFILLING. In filling excavations and ditches made in the streets and alleys of the city, the dirt shall be thoroughly and compactly filled as to prevent settling to any material extent. If the same settles after being filled, the parties making or causing the same to be made, upon oral notice from the City shall promptly refill the same. In all cases, ditches or excavations shall be so filled and finished so as to leave them substantially level with the surrounding surface. Surplus dirt shall be removed from the street or alley.

2.205 COVERING. Excavations made to be covered, and not filled, shall have covers provided of sufficient strength to sustain all reasonable weight coming thereon in the ordinary use of the highway.

2.206 RESTORING PAVEMENT. Whenever any excavation is made in any paved or permanently improved street or alley, the excavation shall be filled as provided in this chapter and the permanent improvement replaced under the supervision of the Street Commissioner in a manner as near as possible to the condition of the original improvement. The street or alley must pass inspection by the street commissioner.

2.207 COMPLETION OF WORK. All excavations made and digging done hereunder shall be completed, and the street or alley restored to its original condition as nearly as may be, with as little delay as possible after the commencement of the work.

2.208 RESTORING DRAINS, SEWERS AND WATER PIPES. Any sidewalk, drain, sewer pipe, water main, or any connections thereto, injured or disturbed by the digging or excavating shall be restored to its original condition by the person doing the digging or excavating or causing the same to be done as soon as possible after the injury is done or discovered. This provision shall apply to such injuries or defects caused by the digging or excavating, but not developing or becoming apparent until after the completion of the work. Such repairs, if needed, shall be made promptly upon oral notice from the Street Commissioner.

2.209 DUTY TO COMPLY. The duty of complying with the provisions of this chapter are hereby imposed upon the person doing the actual work of digging and excavating, and also upon the person whose account or for whose benefit the same is done.

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2.301	DEFINITIONS
2.302	LICENSE REQUIRED
2.303	LICENSE CRITERIA
2.304	LICENSE ISSUANCE
2.305	LICENSE FEE
2.306	SEPARATE LICENSE FOR EACH PLACE OF BUSINESS
2.307	DISPLAY OF LICENSE
2.308	SALE OF TRANSFER OF LICENSE
2.309	LICENSE RENEWALS
2.310	DENIAL, SUSPENSION OR REVOCATION OF LICENSE
2.311	RECORDS REQUIRED
2.312	FAILURE TO MAINTAIN RECORDS
2.313	IDENTIFICATION TAGS
2.314	PROHIBITED ACTS
2.315	SEARCH FOR STOLEN PROPERTY

2.301 DEFINITIONS. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Negative police report* means a report or review compiled by the chief of police or his or her designee which discloses a criminal record of a felony or any conviction under this division two or more times in a calendar year or a conviction under Iowa Code Chapter 714.

*Pawnbroker* means every person who makes loans or advancements upon pawn, pledge or deposit of personal property or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale thereon, or who by advertisement, sign or otherwise holds himself or herself out as a pawnbroker.

*Positive police report* means a report or review compiled by the chief of police or his or her designee which does not disclose a criminal record of a felony or any conviction under this division two or more times, in a calendar year, or a conviction under Iowa Code Chapter 714.

2.302. LICENSE REQUIRED. No person shall engage in the pawn business without first obtaining a pawnbroker license.

All applicants for such licenses shall apply in writing to the office of the City Administrator.

All license applications shall contain the following information;

TITLE II CHAPTER 3 REGULATION & LICENSING OF PAWNSHOPS

The full name, residential address, business address, date of birth and social security number of the applicants and, where the applicant is a corporation or partnership, of the officers or partners;

The name and address of the owner of the business' premises;

The business, occupation or employment of the applicant, including location thereof, for the two years immediately preceding the date of application; and

The arrest record of the applicant and whether the applicant has ever been convicted of any crime, except simple misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as a result of such conviction.

2.303. LICENSE CRITERIA. Upon receipt of a pawnbroker license application, the City Administrator shall cause to be forwarded a copy of the application to the Chief of Police or his or her designee who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The Chief of Police or his or her designee shall report to the City Administrator within thirty (30) days of receipt of the application considering but not limited to the criteria of whether:

The applicant or his or her agent or employee charged with receiving or distributing property has been convicted of a felony, However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license and if such person's rights of citizenship have been restored by the governor, such conviction shall not be a bar to obtaining a pawnbroker license;

The applicant has truthfully reported all relevant facts within the pawnbroker application; and

The applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the state and the city.

2.304. LICENSE ISSUANCE. (a) Upon receipt of a positive police report and the appropriate fees, the City Administrator shall approve the application if the applicant has fully complied with all of the requirements of this division, and the City Administrator shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Chief of Police. The license shall expire on December 31 next after the date of issuance. The license shall state the name and place of residence of the person licensed, the business to be transacted and the place where it is to be carried on, and the date of issuance and expiration of the license.

If the City Administrator determines that the applicant for a new or renewal license has not fully complied with all of the requirements of this division or that a negative police report is returned or that the applicant has falsified his or her application, the City Administrator shall, after consultation with the legal department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in Section 3.110 of this Chapter shall apply.

2.305. LICENSE FEE. An applicant for a pawnbroker license shall submit a fee of \$ 125.00 to the City Administrator at the time of filing the application.

2.306. SEPARATE LICENSE FOR EACH PLACE OF BUSINESS. Any person conducting several or separate pawn broking businesses shall pay the license fee and procure a license for each place, and any violations in one licensed premises shall be deemed violations in all premises licensed by the pawnbroker.

2.307. DISPLAY OF LICENSE. Every licensed pawnbroker shall display his or her license conspicuously in the business so that it may be readily observed by all persons entering the premises.

2.308. SALE OR TRANSFER OF LICENSE. No pawnbroker license shall be sold or transferred. The purchaser of any pawnbroker business or of the majority of the stock of any corporation operating a pawnbroker business shall make application for and obtain a new license before operating such business at the location for which the license has been issued.

2.309. LICENSE RENEWALS. Every licensed pawnbroker shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid not less than forty-five (45) days prior to the expiration of the current license.

2.310 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

*Grounds.* A pawnbroker license may be denied, suspended or revoked for any violation of this Chapter, including but not limited to the failure to comply with new or renewal application procedures, a negative police report, falsification of a new or renewal application, or for the failure to maintain records in conformity with the requirements enumerated under Section 3.111 of this Chapter.

*Proceedings.* The City Administrator shall, upon receipt of information alleging that grounds exist to deny, suspend or revoke the pawnbroker license of any applicant or license under this Chapter, report the circumstances to the City Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee. The notice shall state that a denial, suspension, or revocation hearing has been set before the City Council; the grounds for the proposed denial, suspension or revocation; the date and time of the hearing; and the place where the hearing will be conducted. Upon such hearing, if the City Council shall determine that one or more of the grounds do exist, it may deny an application or suspend or revoke an existing license. A suspension shall constitute a minimum period of fourteen (14) calendar days to a maximum period of thirty (30) calendar days during which period the licensee may not conduct any business except for redemptions and shall conspicuously post a sign stating the terms of the suspension at the entrance of the licensed premises. Such a sign shall be supplied by and posted by the Chief of Police or his or her designee. If the license is revoked, no pawnbroker license shall issue to that licensee for a period of one year.

2.311. RECORDS REQUIRED. The police department shall furnish pawn log sheets to every pawnbroker licensee who shall accurately and legibly enter in ink in the English language the following information at the time of purchase or receipt of any property:

The date and hour of the transaction;

The amount paid, advanced or loaned for the article;

A detailed and accurate description of the article;

When applicable, the model number and/or serial number; and

The name and address of the person from whom the property is purchased or received and his or her date of birth, driver's license number, identification number from this state or social security number, sex, age, height, race and type of photo identification presented.

It shall not be deemed compliance with this section if the licensee or the licensee's agent or employee lists his or her own name as the person selling or transferring the article.

When the pawn log sheets are complete or upon demand from Chief of Police or his or her designee, the licensee shall surrender the original sheets to the Chief of Police or his or her designee who shall provide a copy of the sheets to the City. The licensee shall also maintain a record of the name of the property and residential address of any person redeeming an article of property, the date of such transaction and a description of the article redeemed. If property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed, and the name and address of the person to whom the article was transferred. Such redemption or sales records shall be maintained by the licensee for one year from the date of the transaction and shall be at all times open to examination and recordation by the Chief of Police or his or her designee.

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2.312. FAILURE TO MAINTAIN RECORDS. No person licensed under this Chapter or his or her agents or employees shall fail to maintain, shall fail to surrender or shall falsify, delete, alter, destroy or otherwise destroy any records required by this Chapter.

2.313. IDENTIFICATION TAGS. The person licensed as a pawnbroker, his or her agents or employees shall also legibly record the date and hour the property was purchased or received on the property, or such information shall be securely affixed to the property. Such information must conform to the information recorded pursuant to Section 3.111 of this Chapter.

2.314. PROHIBITED ACTS. No pawnbroker, his or her agents, or employees purchasing or receiving any article of property shall:

Receive any property without first viewing a form of identification containing a photograph of the person identified.

Melt, alter, destroy, sell, redeem, remove from the licensed premises or otherwise dispose of such article, within fifteen (15) days after the receipt and report of any property is made as required by Section 3.111 of this Chapter, except upon written permission from the Chief of Police or his or her designee.

Purchase or receipt any property from any person under the age of eighteen (18) without his or her parent or guardian being present at the time of the transaction and without receiving the parent's or guardian's written consent, a copy of which must be submitted along with the records required by Section 3.111 of this Chapter.

Purchase or receive any property or surrender any property from 6:00 p.m. to 8:00 a.m. Monday through Saturday, and 6:00 p.m. Saturday through 8:00 a.m. Monday.

Conceal, secrete, or destroy for the purpose of concealing any article purchased or received for the purpose of preventing identification.

Deface, alter or remove any serial number or identifying marks from an article in his or her possession.

Take possession of defaced or altered property as described in subsection (6) of this Section.

2.315. SEARCH FOR STOLEN PROPERTY. Whenever the Chief of Police or his or her designee has reason to believe that any pawnbroker, his or her agents, or employees has possession of any stolen property on the licensed premises, he or she shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property.

No such licensee, his or her agents, or employees shall refuse, resist or attempt to prevent the Chief of Police or his or her designee, with or without warrant, from examining the licensed premises for the purpose of discovering stolen property or any violation of this Chapter.

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TITLE III - HEALTH SAFETY & WELFARE

- |                  |   |
|------------------|---|
| CHAPTER ONE      | - CURFEW                                      |
| CHAPTER TWO      | - DANGEROUS AND VICIOUS ANIMALS               |
| CHAPTER THREE    | - STREET TREES                                |
| CHAPTER FOUR     | - MISDEMEANORS                                |
| CHAPTER FIVE     | - NUISANCES                                   |
| CHAPTER SIX      | - SNOW AND ICE ON SIDEWALKS                   |
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3.101	PURPOSE
3.102	DEFINITIONS
3.103	OFFENSES
3.104	DEFENSES
3.105	ENFORCEMENT
3.106	PENALTIES

3.101 PURPOSE. The Council determines that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to achieve the following purpose.

- a. Reinforce the primary authority and responsibility of the adults responsible for the minors.
- b. Protect the public from the illegal acts of minors committed individually and in groups and/or gangs after the curfew hour.
- c. Protect minors from improper influences and criminal activity by individuals and groups and/or gangs that prevail in public places after the curfew hour.

3.102 DEFINITIONS. In this Chapter:

(1) CURFEW HOURS:

- (a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (b) 1:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) ESTABLISHMENT means any privately-owned place of business operated for a profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

(4) GUARDIAN means:

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

(5) KNOWINGLY means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor who is 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 defense that a responsible adult for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

(6) MINOR means any person less than eighteen (18) years of age.

(7) 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 in custody 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 in custody is being held; and, the use of the area is limited to providing non-secure custody only while awaiting transfer to an appropriate juvenile facility or to a court, for contacting of and release to the person's parents, guardian or other responsible adult, or for other administrative purposes; but not longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the continued detention. A judge shall not extend the period of time in excess of six (6) hours beyond the initial six (6) hour holding period.

(8) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(9) PARENT means a person who is:

- a. a natural parent, adoptive parent, or step-parent of another person; or
- b. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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

(11) REMAIN means to:

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

(12) RESPONSIBILITY ADULT means an adult specifically authorized by law or specifically authorized by a parent or guardian to have custody or control of a minor.

(13) SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(14) UNEMANCIPATED means unmarried and/or still under the custody or control of a responsible adult.

#### 3.103 OFFENSES

a. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.

b. A parent or guardian or responsible adult of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city curfew hours.

c. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

#### 3.104 DEFENSES.

It is a defense to prosecution under Section 3.103 that the minor was:

a. Accompanied by the minor's parent or guardian;

b. On an errand at the direction of the minor's parent or guardian without any detour or stop;

c. In a motor vehicle involved in interstate travel;

d. Engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;

e. Involved in an emergency;

f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Winterset, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from without any detour or stop an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Winterset, a civic organization, or another similar entity that takes responsibility for the minor;

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

i. Married or had been married or had disabilities of minority removed;

It is a defense to prosecution under Section 3.103 that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**3.105 ENFORCEMENT.** Before taking any enforcement action under this Chapter, a peace officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or take the person into custody under this Chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, the defenses in Section 3.104 are not present.

After a minor is taken into custody, the peace officer shall notify the parent, guardian or other responsible adult for the minor as soon as reasonably possible. The minor shall be released to this responsible adult for the minor upon the promise of such adult to produce the minor in court at such time as the court may direct. If a minor is issued a citation to appear for a violation of this Chapter, a peace officer shall notify the responsible adult for the minor, if known, within twenty-four hours of the violation.

**3.106 PENALTIES.** A person who violates a provision of this Chapter is guilty of a simple misdemeanor punishable upon conviction as provided by law.

When required by Section 232.8 of the Code of Iowa, as amended, the Magistrate Court shall waive original jurisdiction over a minor who violates Section 3.103 (a) of this Chapter and shall refer the minor to juvenile court.

A person who violates a provision of this Chapter shall be deemed to have committed a Municipal Infraction punishable upon conviction as provided by Iowa Code Section 364.22, as amended.

3.201      DEFINITIONS  
3.202      RUNNING AT LARGE PROHIBITED  
3.203      KEEPING OF DANGEROUS ANIMALS PROHIBITED  
3.204      DANGEROUS ANIMALS PROHIBITED  
3.205      SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS  
3.206      KEEPING OF VICIOUS ANIMALS PROHIBITED  
3.207      SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS  
3.208      ANIMAL SEIZURE AND IMPOUNDMENT  
3.209      RIGHT TO KILL ANIMALS  
3.210      ANNOYANCE OR DISTURBANCE BY ANIMALS  
3.211      PENALTY

3.201      DEFINITIONS

1. "Animal" means every wild, tame or domestic member of the animal kingdom other than the genus and species *Homo Sapiens*.
2. "Dog" shall mean and include members of the canine species, male or female, whether neutered or not.
3. "At large" shall mean any licensed or unlicensed animal found off the premises of its owner and not restrained within a motor vehicle, housed in a veterinary hospital or kennel, or on a leash held by a competent person and obedient to that person's command.
4. "Dangerous animal" means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (b) any animals declared to be dangerous by the Madison County Board of Health or the City Council; and (c) the following animals which shall be deemed to be dangerous animals *per se*:
  - (1) wolves and coyotes;
  - (2) badgers, wolverines, weasels, mink, and other mustelids (except ferrets);
  - (3) bears;
  - (4) all apes including chimpanzees, baboons and macaques;
  - (5) monkeys, except the squirrel monkey;
  - (6) elephants;
  - (7) wild boar;
  - (8) black widow spiders and scorpions;
  - (9) snakes which are naturally venomous and poisonous;
  - (10) all cats, except domestic cats (*Carnivora* of the family *Felidae* including, but not limited to, lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.);
  - (11) raccoons, opossums, and skunks;
  - (12) alligators and crocodiles.

TITLE III      CHAPTER 2      DANGEROUS AND VICIOUS ANIMALS

5. "Horse" shall mean a large solid-hoofed herbivorous mammal (*Equus caballus*).
6. "Health department" shall mean the Madison County Board of Health and its officers, employees and agents.
7. "License" shall mean the tag issued to owners of dogs pursuant to state law.
8. "Kennel" shall mean any premises on which four (4) or more dogs, or four (4) or more cats six (6) months old or older are kept or raised solely for the bona fide purposes of sale and which are kept under constant restraint.
9. "Owner" or "owner of an animal" shall mean any person or persons, firm, association or corporation, owning, keeping, sheltering or harboring an animal.
10. "Person" shall mean any individual, association, partnership, or corporation, and includes any officer, employee, or agency thereof.
11. "Pet shop" shall mean any person, partnership or corporation engaged in the business of breeding, buying or selling or boarding animals of any species, except the operation of a kennel or agricultural or wild-life pursuits.
12. "Riding school or Horse stable" shall mean any person, partnership or corporation engaged in the business of teaching persons to ride horses, or providing horses to ride for a fee.
13. "Meaning of certain words" shall mean words used in the singular include the plural, and the plural shall include the singular; and the masculine gender shall include the feminine and the feminine gender shall include the masculine gender as the context may indicate.
14. "Vicious animal" shall mean any animal, except for the dangerous animals *per se* as defined above, while running at large that has attacked or bitten any person without provocation; or, any animal that has exhibited vicious propensities in present or past conduct such as (a) biting a person or persons on two separate occasions, (b) biting a person once causing injuries above the shoulders of person, (c) could not be controlled or restrained by the owner at the time of the bite to prevent or avoid the occurrence, (d) has attacked or bitten any domestic animal or fowl on two separate occasions, or (e) which has been found to possess such a vicious propensity by the City Council after hearing; or the Pit Bull dog as defined by this Chapter.

15. "Pit bull dog" shall mean:

- (a) the Staffordshire bull terrier breed of dog;
- (b) the American pit bull terrier breed of dog;
- (c) the American Staffordshire terrier breed of dog;
- (d) dogs of mixed breed or of other breeds than listed above which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers.
- (e) any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or a combination of any of these breeds.

3.202 RUNNING AT LARGE PROHIBITED. It shall be unlawful for the owner of any animal including, but not limited to, cats, dogs, cattle, horses, swine, sheep, fowl, or any animal defined as dangerous or vicious by this Chapter to allow such animal to run at large within the corporate limits of the City. The term "allow" shall mean to permit to run at large or to neglect to restrain or prevent the animal from running at large.

3.203 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a custodian whether temporary or otherwise for such animal, or keep such animal for any other purpose or in any other capacity within the corporate limits of the City, except as may be provided by Section 3.204.

3.204 DANGEROUS ANIMAL EXCEPTIONS. The prohibition of Section 3.203 shall not apply to the keeping of dangerous animals in the following circumstances:

(1) the keeping of dangerous animals in a public zoo, bonafide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study.

(2) the keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus, carnival, exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required federal and state licenses.

(3) the keeping of dangerous animals in a bonafide, licensed veterinary hospital for treatment.

(4) the keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Conservation Commission.

(5) any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission pursuant to Iowa Code Chapters 109 and 109A.

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3.205 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS

In the event that a dangerous animal is found at large, such animal may, in the sole discretion of the Mayor or his designees, 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 found at large, nor shall the City have a duty to notify the owner of such animal prior to its destruction.

Upon the complaint of a person that a person is keeping, sheltering or harboring a dangerous animal premises in the corporate limits of the City, the police shall cause the matter to be investigated. If after investigation the police reasonably believe the facts indicate a dangerous animal per se is being

kept, sheltered or harbored within the city, then the police shall immediately cause said animal to be seized. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period the person keeping, sheltering or harboring such dangerous animal per se has not appealed the seizure to the City Council, then the police shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under this Chapter to possess such dangerous animals, or destroy such animal in a humane manner. In the event of an appeal the animal shall remain in impoundment until final disposition of the appeal.

Upon the complaint of any person that a dangerous animal other than a dangerous animal per se is being kept, sheltered or harbored within the corporate limits of the City, then the police shall cause the matter to be investigated. If after investigation, the police reasonably believe the facts indicate such a dangerous animal is being kept, sheltered or harbored within the City, then the police shall order such animal to be removed by its owner from the corporate limits of the City, or to permanently place such animal with an organization or group allowed under this Chapter to possess such dangerous animals, or to destroy such dangerous animal within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove dangerous animals, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal. The Notice shall be personally served upon such person or by certified mail. Such order and notice to remove dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person. In such case, the police shall cause the animal to either be immediately seized and impounded or destroyed if seizure and impoundment in the reasonable judgment of the police are not possible without risk of serious physical harm or death to any person.

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The police order to remove a dangerous animal or the police seizure of a dangerous animal may be appealed to the City Council. The police order shall be stayed pending City Council decision on the appeal. The Appeal shall be filed in writing with the Office of the City Administrator within three (3) days of the receipt of the police order or of the police seizure. Failure to timely file such written appeal shall constitute a waiver of the right to appeal and the police order or seizure shall be then deemed final for all purposes. The notice of appeal shall state the grounds for appeal. The hearing shall be held as expeditiously as reasonably possible. The appellant shall be entitled to at least one (1) day notice of the date of hearing. The City Council may prescribe rules for the conduct of such hearings. Following the hearing, the City Council may affirm or reverse the police order or seizure. The City Council shall cause notice of its decision to be served upon the appellant either by personal service or by certified mail. The City Council decision shall be deemed final for all purposes three (3) days after the appellant's receipt of the notice of decision.

The person keeping, sheltering or harboring the dangerous animal subject to police order shall comply with the police order on or before the time the police order becomes final. If the person has not timely complied with the police order, then the police or their designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. At the end of the impoundment period, the police shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under this Chapter to possess such dangerous animal, or destroy such dangerous animal in a humane manner.

Any person who fails to timely comply with a police order shall be guilty of a simple misdemeanor.

3.206 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep shelter or harbor for any reason within the corporate limits of the City, a vicious animal as defined by this Chapter.

3.207 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

In the event that a vicious animal as defined in this chapter is found at large, such animal may, in the sole discretion of the Mayor, or the Mayor's designee or designees, be either captured and impounded or be destroyed in accordance with the procedures under this Chapter. The City shall be under no duty to first attempt the capture and impoundment of a vicious animal as defined in this Chapter prior to its destruction nor shall the City have a duty to notify any person of the vicious animal being at large prior to either its capture and impoundment or its destruction.

The police either upon receipt of a complaint or upon their own action may initiate proceedings as hereafter provided to determine whether or not an animal being kept, sheltered or harbored within the corporate limits of the City is a vicious animal as defined by this Chapter. The police shall file a complaint with the office of the City Administrator. The complaint shall include a description of the animal and the name and last known post office address of the person believed to be keeping, sheltering or harboring the animal. The City Administrator shall set a time and date of hearing on the complaint and shall cause a Notice of Hearing to be served upon the person described in the complaint. The person shall be served not less than two (2) days prior to the date of the hearing. Service shall be made either in the manner of an original notice as provided by the Iowa Rules of Civil Procedure or by personal service upon the person named in the complaint. The Notice shall describe the general nature of the proceeding and the possible resulting actions. The hearing shall be conducted by the Mayor who shall be responsible for the determination of the validity of the complaint.

If the Mayor upon hearing concludes the animal is a vicious animal as defined by this Chapter, then the Mayor shall order the person owning, keeping, sheltering or harboring the animal to remove the vicious animal from the corporate limits of the City or to destroy the vicious animal in a humane manner. This order shall be served upon the person or entity against whom issued in the same manner as provided for service of the Notice of Hearing.

Unless appealed as hereafter provided, the order of the Mayor shall be deemed final for all purposes three (3) days after the order is served as provided by subparagraph (3) above.

The person or entity against whom the order of the Mayor is issued shall have the right to appeal the order to the City Council. The order shall be stayed pending City Council action on the appeal. The appeal shall be filed in writing with the Office of the City Administrator within three (3) days of the date of the service of the order as above provided. Failure to timely file such written appeal shall constitute a waiver of the right of appeal and the order of the Mayor shall be then deemed final for all purposes. The notice of appeal shall state the grounds for appeal. The hearing shall be held as expeditiously as reasonably possible. The appellant shall be entitled to at least one (1) day notice of the date of hearing. The City Council may prescribe rules for the conduct of such hearings. Following the hearing, the City Council may affirm or reverse the order of the Mayor. The City Council shall cause notice of its decision to be served upon the appellant either in the manner of an original notice, by personal service or by certified mail. The City Council decision shall be deemed final for all purposes three (3) days after the appellant's receipt of the City Council notice of decision.

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If the City Council affirms the Mayor, then the notice of decision shall order the person or entity owning, keeping, sheltering or harboring such vicious animal to remove such animal from the corporate limits of the City or to destroy the animal in a humane manner.

The person or entity owning, keeping, sheltering or harboring the vicious animal shall comply with the order of the City Council on or before the date the order becomes final. In the event the person or entity does not timely comply with the order, then the police or their designee is authorized to seize and impound such vicious animal. The vicious animal shall be impounded for a period of seven (7) days. If at the end of the impoundment period the person or entity against whom the order has been entered has not petitioned the Iowa District Court for Madison County for further review of the order, the police or their designee shall then cause the vicious animal to be destroyed in a humane manner.

The failure to comply with a final order issued pursuant to this Section shall constitute a simple misdemeanor.

3.208 ANIMAL SEIZURE AND IMPOUNDMENT. Any animal, including dangerous or vicious animals as defined by this Chapter, found at large in violation of Section 3.203 of this Chapter or any animal including dangerous or vicious animals as defined by this Chapter reasonably believed to have either attacked or bitten any person whether at large or not may be seized by the police or their designee and impounded by them. All animals reasonably believed to have either attacked or bitten any person upon seizure shall be subject to quarantine in a veterinary clinic under contract with the City to provide such service for a sufficient period determined by the City Veterinarian to assure the animal is not infected with rabies or similar disease. The animal shall be released to its owner when the City veterinarian certifies the animal is not infected with rabies or similar disease. All persons owning, keeping, sheltering or harboring such impounded and/or quarantined animal may recover the animal only after payment to the City of the fees and costs established by this Chapter. If such animal(s) are not claimed and all fees and costs paid within five (5) days of the date of the initial impoundment of the animal or within five (5) days after the date upon which the City Veterinarian certifies the quarantined animal to be disease-free, then the animal shall be disposed of in a humane manner. Should the disposal be by sale, then the sale proceeds belong to the City. The sale may be in any reasonable manner. The impoundment fee owed to the City shall be ten dollars (\$10.00) . The quarantine fee owed to the City shall be ten dollars (\$10.00) . In addition to the foregoing fees, the owner in order to recover the animal from impoundment and/or quarantine shall first reimburse the City for the actual veterinary costs incurred by the City during the impoundment and/or quarantine period of the animal.

TITLE III      CHAPTER 2      DANGEROUS AND VICIOUS ANIMALS

3.209 RIGHT TO KILL ANIMALS. In lieu of impounding as provided by this Chapter, the City shall have the right to kill any animal including any licensed or unlicensed dog when such animal is caught in the act of worrying, chasing, maiming or killing any domestic animal or fowl or when such animal is attacking or attempting to bite a person.

3.210 ANNOYANCE OR DISTURBANCE BY ANIMALS. It shall be unlawful for the owner of an animal including dogs to allow or permit such animal to cause annoyance or disturbance to any person or persons by howling, yelping, barking which is disruptive, bothersome, or vexatious or persistently irritating acts or behaviors.

3.211 PENALTY. A police officer, or other enforcement official authorized by the City, upon determining that probable cause exists that an owner as defined in this Chapter has violated any provision of this Chapter, may issue a written summons to the owner(s) for such violation(s). The summons shall include the owner(s) name and last known address, the date and approximate time of the violation(s), the location of the violation(s), a brief and concise description of the violation(s), the Code Section(s) violated, and the number or name of the police officer or other City enforcement official issuing the summons. The owner within thirty (30) days of the date the summons is issued shall pay to the City a fine of Twenty-five Dollars (\$25.00) for all first offense violations of this Chapter; a fine of Fifty Dollars (\$50.00) for all second offense violations of this Chapter; and, a fine of One Hundred Dollars (\$100.00) for all third and subsequent violations of this Chapter. The payment of the fine to the City within thirty (30) days of the date the summons is issued shall be deemed an admission of the violation and no other costs or charges other than the fine shall be collected. Violations which are not paid within thirty (30) days of the date the summons is issued shall be deemed denied by the owner(s). In this event the City may thereupon charge the owner(s) by the same or a similar written summons before the Magistrate Court in the same manner and procedure as traffic violations under Iowa Code Chapter 805 including the assessment of court costs as provided by that Iowa Code Chapter. All fines shall be increased by Five Dollars (\$5.00) if not paid within thirty (30) days of the date of the initial summons being issued by the City. In determining if a violation charged is a second or subsequent offense for purposes of sentencing under this Chapter, the Court shall consider a summons issued for a violation of this Chapter as being one (1) violation for purposes of sentencing; each previous summons for a violation on which conviction, or admission of violation, was entered prior to the date of the current violation charged shall be considered and counted as a separate previous offense; and, any conviction, or admission of violation, entered more than six (6) years prior to the date of the current violation charged shall not be considered and counted as a separate previous offense under this Chapter. In addition, any violation of this Chapter, or any provision thereof, shall be a municipal infraction subject to the provisions of Iowa Code Section 364.22, as amended.

TITLE III    CHAPTER 3    STREET TREES

3.301        DEFINITIONS  
3.302        PERMIT TO PLANT OR REMOVE TREES  
3.303        APPLICATIONS FOR PERMIT  
3.304        ISSUANCE OF PERMIT  
3.305        STREET TREE PLANTING STANDARDS  
3.306        MAINTENANCE OF STREET TREES  
3.307        REMOVAL OF DEAD OR DISEASED STREET TREES  
3.308        NOTICE TO REMOVE  
3.309        WRITTEN COMPLAINT  
3.310        PROTECTION OF STREET TREES  
3.311        PENALTY  
3.312        REMOVAL OF DEAD OR DISEASED TREES FROM PRIVATE PROPERTY  
3.313        APPEALS

3.301. DEFINITIONS. In this Chapter the following terms shall have the meanings described below unless the context otherwise indicates:

(1) "Property owner" means the holder of legal title of record, or the contract purchaser, if there is one.

(2) "Street trees" mean trees located between the street property line, otherwise known as the right-of-way line, and the street curb or street surface of all streets, avenues or public right-of-ways within the City.

(3) "Street parking" means the portion of the street right-of-way between the property line (usually the outside edge of the public sidewalk) and the edge of the curb and/or driving surface of the public street.

(4) "Cul-de-sac island" means the open land area located in the center of a hard-surfaced street turn-around.

(5) "Flowers" means the annual and perennial plants that consist of a shortened axis bearing modified leaves.

(6) "Shrubs" means a low growing, woody plant or bush.

3.302. PERMIT TO PLANT OR REMOVE TREES. No person shall plant, move or remove any tree in any street parking, cul-de-sac island, parking, or public-owned place in the City nor cause such action to be done by others without first obtaining a written permit from the City Administrator or designee. A permit shall not be required for planting flowers in the street parking or cul-de-sac islands provided the flowers not have a maximum height greater than 30 inches within 35 feet of a street intersection.

3.303. APPLICATION FOR PERMIT. An application for a permit to plant, move or remove any tree in any street parking, cul-de-sac island or other public-owned place shall be on forms supplied by the City and shall be accompanied by a plan or drawing which shall accurately show:

- (1) the location of the applicant's adjoining property.
- (2) the tree species and location of each tree proposed to be planted and of each tree already existing in the street parking or other public owned area within twenty-five (25) feet of the proposed tree planting.
- (3) the location of any public utility fixture such as utility poles, wires and accessories, or traffic control devices, or mail boxes or other appurtenances located upon the street parking.

3.304. ISSUANCE OF PERMIT. The City Administrator, or designee, shall issue a permit to plant, move or remove a street tree after review and consideration of the application. Any such permit shall expire within 120 days after issuance of the permit.

All permits to plant trees shall be issued upon the express condition that the permit may be revoked at any time, and any trees planted pursuant to said permit may be removed by the City.

3.305. STREET TREE PLANTING STANDARDS. The following standards shall govern the planting of street trees:

- (1) No tree may be planted which would cause a public danger or nuisance.
- (2) No tree may be planted within three feet of a sidewalk or other impervious surface such as the curb and gutter or the street surface.
- (3) No tree or shrub that will grow above 30 inches in height shall be planted on a corner lot where two street intersect for a distance of 35 feet in any direction from the point of intersection at the curb line.
- (4) No tree shall be planted within 15 lateral feet of an overhead utility line, within 3 feet of any buried utility line, within 10 feet of a fire hydrant, within 5 feet of a driveway and 25 feet of a traffic control sign.

TITLE III CHAPTER 3 STREET TREES

(5) No tree shall be planted if the tree species is not included on the list of permitted tree species developed by the Winterset Tree Commission.

(6) No tree shall be planted without first calling Iowa One Call and complying with the procedures for locating underground utilities.

(7) In cases of damage to utility lines, any street tree planted in the right-of-way may be trimmed or removed in order to repair the utility line.

3.306. MAINTENANCE OF STREET TREES. It shall be the duty of the abutting property owners or resident to keep all trees pruned and trimmed so that the lowest branches are not less than eight (8) feet above the public sidewalk. The abutting property owner shall be responsible to prune and trim branches that overhang or come in contact with their residential home or commercial building. The property owner shall also remove all damaged and broken tree limbs that overhang private property, and to remove tree limbs that are or may become dangerous or a potential nuisance to abutting real and personal property.

The City shall maintain that portion of a street tree that overhangs the public street or alley, and shall remove branches and limbs that interfere with the visions of drivers approaching any intersection, street, alley or traffic control sign.

3.307. REMOVAL OF DEAD OR DISEASED STREET TREES. The property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right of way. However, the property owner may voluntarily do so upon issuance of the permit issued in accordance with this Chapter.

3.308. NOTICE TO REMOVE. The abutting property owner may be ordered to remove at their expense any tree or shrub which was planted in violation of the provisions of this Chapter. Such property owner shall be served with a written notice served in the manner of an original notice, by personal service or by certified mail to the last known post office address. If such property owner fails to comply with the notice within thirty (30) days of the date of service of the notice, the City may cause the tree or shrub to be removed and the cost of removal may be assessed against the abutting property for collection in the same manner as a property tax.

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3.309. WRITTEN COMPLAINT. Any person having cause to believe that any tree or shrub is infected with Dutch Elm disease or other infectious tree disease may file a written complaint with the City Administrator, which complaint shall set forth the location and description of such tree or shrub. Upon filing of the complaint, the City Administrator shall cause a specimen of such tree or shrub to be tested by such technological facilities or testing procedures as the City Administrator may select. Such test may also be carried out without the filing of a complaint upon the initiative or request of any city employee or of the City Council. In the event testing discloses the tree or shrub is infected with Dutch Elm disease or other infectious tree disease, the City Administrator shall proceed to initiate removal of said tree or shrub using the provisions of this Chapter.

3.310. PROTECTION OF STREET TREES. No person shall willfully break, deface, kill, damage or destroy any street tree in any street parking, park or other public-owned place in the City unless authorized by permit issued in accordance with this Chapter.

3.311. PENALTY. Any person violating any provision of this Chapter shall upon conviction be guilty of a simple misdemeanor punishable as provided by law. Any tree planted in violation of the provisions of this Chapter may be removed by the City or may be ordered to be removed by the abutting property owner.

3.312. REMOVAL OF DEAD OR DISEASED TREES FROM PRIVATE PROPERTY. Action commenced by the City for the removal of dead or diseased trees and dead wood from private property is regulated by Chapter 5 of Title III of this Code.

3.313. APPEALS. Any action of the City Administrator pursuant to this Chapter may be appealed to the Tree Commission pursuant to the provisions of Section 1.1703 of this Code.

3.401 BARBED WIRE  
3.402 ~~DUMPING ON STREETS~~ MOVED TO 3.604  
3.403 FIRES  
3.404 ILLEGAL CONSUMPTION OF LIQUOR  
3.405 INTOXICATION  
3.406 FIREARMS  
3.407 HUNTING OR FIREARMS IN PARK  
3.408 SLING SHOTS  
3.409 DISORDERLY CONDUCT  
3.410 DAMAGE TO FIRE HOSE  
3.411 POSTING NOTICES  
3.412 DESTRUCTION OF NOTICES  
3.413 INTERFERENCE WITH PUBLIC OFFICIALS  
3.414 ADVERTISING OR MARKING ON SIDEWALK  
3.415 ~~DRAINAGE ON SIDEWALK~~ MOVED TO 3.605  
3.416 ~~OBSTRUCTING STREETS AND SIDEWALKS~~ MOVED TO 3.606  
3.417 DRIVING ON SIDEWALK  
3.418 DAMAGE TO PAVEMENT  
3.419 DAMAGE TO PAVEMENT BY CHEMICALS AND MACHINERY  
3.420 MINORS RESTRICTED  
3.421 CLOSING HOURS OF CITY PUBLIC PLACES, INCLUDING  
THE CITY PARKS, THE WATER RESERVOIR AND THE CITY SWIMMING  
POOL  
3.422 RESTRICTIONS TO MOTORCYCLES IN PUBLIC PLACES  
3.423 LITTERING  
3.424 LOITERING  
3.425 INJURIES TO GRAVESTONES  
3.426 URINATION IN PUBLIC  
3.427 SMOKING AND TOBACCO VIOLATIONS  
3.428 RESPONSIBILITY OF OWNER AND TENANT TO MAINTAIN PARKING AREA

3.401 BARBED WIRE. Except as provided in this chapter, no person shall construct or cause to be constructed any barbed wire fence and no person shall use any barbed wire for the purpose of repairing or rebuilding any fence. This section shall not apply to the following:

- a. Animals restrained by the owners thereof pursuant to Chapter 188 of the Code of Iowa; and,
- b. Fences in which the barbed wire is six (6) feet or more from the ground level. Where words and phrases used in this chapter are defined by the laws of the State of Iowa, such definitions shall apply to this chapter.

3.402 MOVED TO 3.604.

3.403 FIRES. No person shall build any fire out of doors for the purpose of burning rubbish, refuse or garbage.

3.404 ILLEGAL CONSUMPTION OF LIQUOR.

a. No person shall use or consume any alcoholic liquors, wine or beer upon the public streets or highways or in any public place, except premises covered by a liquor control license. "Public place" means any place, building, or conveyance to which the public has or is permitted access.

b. Beer containing less than five percent of alcohol by weight may be used or consumed by persons who have attained the legal drinking age while upon or in City-owned park and recreation facilities and the City Reservoir property, but not while upon or in any vehicle, boat, animal, or animal drawn vehicle, and subject to such limitations, exclusions and regulations as may be enacted by the Winterset Park and Recreation Board pursuant to the rule making authority granted said Board by Section 1.605 of the Winterset Municipal Code.

3.405 INTOXICATION. No person shall be intoxicated or simulate intoxication in any public place. "Public place" means any place, building or conveyance to which the public has or is permitted access. When a peace officer arrests or cites a person on a charge under this section, the peace officer shall follow the procedures prescribed under Iowa Code Section 123.46(3).

3.406 FIREARMS. No person shall fire or discharge any firearm of any kind or description within any Residential, Commercial or Industrial Zoning District within the City without the prior permission of the Mayor.

3.407 HUNTING OR FIREARMS IN PARK. No person shall hunt or trap any game or discharge any firearm of any kind or description in any park or cemetery within the corporate limits of the City.

3.408 SLING SHOTS. No person shall shoot or throw any shot, stone, arrow or other hard substance by or with any rubber band, sling, BB gun, air gun, gas powered gun, bow or other means or apparatus within any Residential, Commercial or Industrial Zoning District within the City.

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

1. 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.

2. Makes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

3.410 DAMAGE TO FIRE HOSE. No person shall drive any vehicle upon or across any fire hose or in any other manner interfere with or damage any fire equipment.

3.411 POSTING OF NOTICES. Except as may be allowed under Sections 3.414 or 3.416 of this Chapter, no person shall fix any poster, written notice or advertisement to any property without the consent of the owner or to any property owned by the City.

3.412 DESTRUCTION OF NOTICES. No person shall disfigure or tear down any advertisements, notices or ordinance posted by order of the City.

3.413 INTERFERENCE WITH PUBLIC OFFICIALS. No person shall hinder or obstruct the making or repairing of any improvements or works of any kind ordered by the City or otherwise interferes or obstructs any City employee in the performance of their official duties.

3.414 ADVERTISING OR MARKING ON STREETS AND SIDEWALK. No person shall place or allow any advertising matter or signage or otherwise mark or write upon the streets and sidewalks of the City, except that in the City Downtown Commercial (DC) Zoning District one (1) temporary, portable sign advertising the adjacent business may be placed by the merchant on the public sidewalk immediately adjoining the merchant's business premises. Any such sign shall not exceed eight (8) square feet per side in total area and shall be permitted on the public sidewalk only during the hours when the adjacent merchant's business is operating and open to the public.

3.415 MOVED TO 3.605  
3.416 MOVED TO 3.606

3.417 DRIVING ON SIDEWALK. No person shall drive any motor vehicle upon any public sidewalk except at driveway entrances to private property.

3.418 DAMAGE TO PAVEMENT. No person shall operate or drive upon the paved streets of the city any vehicle which uses lugs, spikes, flanges, ribs, or rims upon the wheel or wheels which come in contact with the street pavement.

3.419 DAMAGE TO PAVEMENT BY CHEMICALS AND MACHINERY. No person shall operate or cause to be operated any machinery upon the paved streets of the City, the use of which might be injurious or detrimental to the street pavement and no person shall deposit or place upon the paved streets of the city any chemical which might be injurious or detrimental to the street pavement or place or deposit any oil or gasoline, or permit the same to drip or escape from any vehicle, tank or receptacle, upon any street.

3.420 MINORS RESTRICTED. Minors are prohibited from entering any place of business where the sale for consumption on the premises of beer or alcoholic beverages, constitute more than 50% of the gross business transacted therein. It shall be unlawful for the owner, operator or manager of such business, his agent or employee, or the parent or guardian of any minor knowingly to allow or permit a minor to enter such place of business.

3.421 CLOSING HOURS OF CITY PUBLIC PLACES, INCLUDING THE CITY PARKS, THE WATER RESERVOIR, AND THE CITY SWIMMING POOL. No person shall enter upon or remain in the following public places owned by or under the jurisdiction of the City of Winterset, Iowa, between the designated hours specified below:

PLACE	CLOSING HOURS
a. CITY PARKS, except persons camping in the City Park in the areas designated for public camping by the Park & Recreation Commission.	from 10:30 P.M. to 6:00 A.M.
b. WATER RESERVOIR	from 11:30 P.M. to 6:00 A.M.
c. SWIMMING POOL, TENNIS COURT	from 11:30 P.M. to 6:00 A.M.

3.422 RESTRICTIONS ON MOTOR VEHICLES IN PUBLIC PLACES. No person shall operate any motor vehicle including any motorcycle or motorbike upon any public place owned by or under the jurisdiction of the City of Winterset, Iowa except upon hard surface roads or designated public parking areas that have been provided for such motor vehicular traffic. "Public place" as used in this section includes, but is not limited to, the City parks and recreational facilities and the water reservoir.

3.423 LITTERING. No person shall place, cause to be placed, throw or deposit onto or in any publicly owned property or public right of way of the City of Winterset, Iowa, any cans, bottles, garbage, rubbish, litter or other debris. 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 caused the litter.

3.424 LOITERING. It shall be unlawful for any person to congregate, stand, loaf or loiter upon any street, alley, bridge or crossing so as to obstruct the same, hinder or prevent persons passing or attempting or desiring to pass thereon; or to congregate, stand loaf or loiter in or in front of any hall, lobby, doorway, passage or entrance of any public building, theater, hotel, eating house, lodging house, office building, store, shop, office or factory or other like building so as to obstruct the same, hinder or prevent persons walking along or into or out of the same or attempting or desiring to do so; or, by sitting upon or leaning upon or against any railing or other barrier about any area, entrance, basement or window to obstruct the light or prevent passage for persons or tenants occupying the building to which such area, entrance, basement or window belongs.

3.425 INJURY TO GRAVESTONES. It shall be unlawful for any person to willfully 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 lot within any such cemetery, or to willfully destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or to willfully throw or leave any rubbish, refuse, garbage, waste, litter or foreign substance within the limits of said cemetery, or to drive any vehicle or bicycle at an unusual and forbidden speed over the Avenues or roads within said cemetery, or to drive any vehicle or bicycle outside of said avenues and roads, and over the grass, graves or other property of said cemetery.

3.426 URINATION IN PUBLIC. No person shall urinate or defecate on any street, alley or sidewalk or on any portion of any private property visible by the public from any street, alley or sidewalk.

3.427 Pursuant to Iowa Code Section 380.10 the City of Winterset does hereby establish, declare and adopt by reference the following sections from Iowa Code chapter 142B and 453A whose subject matter concerns smoking in public places and tobacco violations to be applied within the City of Winterset, Iowa:

MUNICIPAL <u>CODE SECTION</u>	IOWA <u>CODE SECTION</u>	<u>SUBJECT MATTER</u>
3.426	142B.2	SMOKING VIOLATIONS
3.427	453A.2	TOBACCO VIOLATIONS

3.428 RESPONSIBILITY OF OWNER AND TENANT TO MAINTAIN PARKING AREA. No person owning or occupying property adjoining a street right of way shall allow the area of the street right of way between the property line of the adjoining property to the edge of the traveled portion of the street to be unkept including allowing the vegetation (including grass) to become more than eight (8) inches in height.

TITLE III CHAPTER 5 NUISANCES

3.501	NUISANCES PROHIBITED
3.502	DEFINITION OF NUISANCE
3.503	NOTICE TO ABATE NUISANCE
3.504	CONTENTS OF NOTICE TO ABATE
3.505	METHOD OF SERVICE
3.506	REQUEST FOR HEARING AND APPEAL
3.507	ABATEMENT
3.508	COLLECTION OF COST OF ABATEMENT
3.509	PENALTY
3.510	RIGHT OF ENTRY

3.501 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited.

3.502 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property is a nuisance. Nuisance shall include, but not be limited to, the following matters related to private property, yards, junk, junk vehicles and buildings:

- a. The dense growth of weeds, vines, brush or other vegetation so as to constitute a health, safety or fire hazard, including any accumulation of noxious weeds as defined by the Code of Iowa.
- b. Dead or diseased trees, not including neatly stacked firewood.
- c. Storing, accumulating or allowing junk to remain on private property. Junk includes all old or scrap copper, brass, lead or other nonferrous metal; iron, steel or other old or scrap ferrous materials; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery or appliances or parts of such vehicles, machinery or appliances; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; and, construction materials.
- d. Storing, parking or allowing junk vehicles to remain on private property. Junk vehicles include any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other broken or cracked glass; any vehicle with a broken or loose fender, door, bumper, hood, wheel, steering wheel, trunk top or exhaust system; vehicle lacking an engine, or one or more wheels, or other structural parts which renders such vehicle totally inoperable; any vehicle, or part of a vehicle, which, because of its defective or obsolete condition, constitutes a threat to the public health and safety; any vehicle, or part of a vehicle, which has become a habitat for rats, mice, snakes, any other vermin or mosquitoes, wasps,

TITLE III CHAPTER 5 NUISANCES

hornets or other insects; any vehicle which contains gasoline or any other flammable fuel and is inoperable; any vehicle which is not capable of moving by its own intended power source in both forward and reverse gears. Any vehicle which does not properly display government issued plates or stickers indicating current registration as required by the Code of Iowa. Mere licensing of such a vehicle shall not constitute a defense to a finding that a vehicle is a junk vehicle according to this Code section.

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

f. The provisions of this Chapter do not apply to:

- (1) Any junk or junk vehicle stored within a garage or other completely enclosed structure for so long as the garage or structure is not in violation of any provision of the Municipal Code;
- (2) A licensed motor vehicle or travel trailer dealer; and/or
- (3) Any one operable race car currently being raced in sanctioned events provided that the vehicle is covered with a commercial tarpaulin constructed especially for motor vehicles, sufficient in size to cover the entire vehicle.

3.503 NOTICE TO ABATE NUISANCE. Whenever a nuisance is found to exist, a notice shall be served by the City upon the owner, agent, or occupant of the property on which the nuisance is located or upon the person causing or maintaining the nuisance ordering the abatement of the nuisance.

3.504 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

- (a) an order to abate the nuisance;
- (b) location of nuisance, if stationary;
- (c) description of what constitutes the nuisance;
- (d) statement of action or actions necessary to abate the nuisance;
- (e) statement that the person may appeal the order of abatement by requesting a hearing within seven (7) calendar days in accordance with Section 3.506;

TITLE III CHAPTER 5 NUISANCES

(f) statement that if the nuisance is not abated as directed and no appeal of the order is made within the time prescribed, the City may abate the nuisance and assess the cost against such person.

3.505 METHOD OF SERVICE. The notice to abate shall be served by the City Administrator or designees upon the named person either by mailing by certified mail or by serving the notice in person. Proof of service shall be made by filing in the City Administrator's office a copy of the notice with the notation thereon indicating the date of mailing or the date of personal service.

3.506 REQUEST FOR HEARING AND APPEAL.

(a) Any persons ordered to abate a nuisance may appeal the order of abatement to the Mayor to determine whether a nuisance exists. The appeal shall be in writing, shall request a hearing before the Mayor and be filed with the City Administrator's office within seven (7) calendar days of the date of the service of the notice to abate. If not timely appealed, it will be conclusively presumed that the nuisance exists and the order of abatement is then deemed final. The appeal hearing must be held within a reasonable time after the appeal is filed.

(b) Following the hearing, the Mayor shall render a written decision as to whether a nuisance exists. If the Mayor finds that a nuisance exists, the Mayor shall affirm the order of abatement. The Mayor's decision may allow additional time, which must be reasonable under the circumstances, to correct the nuisance. The Mayor's decision for purposes of appeal shall be deemed final upon its filing with the City Administrator's office.

(c) The interested parties may appeal within thirty (30) calendar days the Mayor's decision by petition filed with the Iowa District Court. Any appeal to the Iowa District Court shall not stay the effect of the final order of abatement.

3.507 ABATEMENT. If the person so notified neglects or fails to abate the nuisance as directed, the City Administrator may cause the nuisance to be abated and shall keep an accurate account of the expenses incurred.

3.508 COLLECTION OF COST OF ABATEMENT. The City Administrator shall mail a statement of the total cost to the person failing to abide by the notice to abate and if the amount shown by the statement has not been paid within one month, the City Administrator shall certify the cost to the County Auditor and it shall then be collected with and in the same manner as general property taxes.

TITLE III CHAPTER 5 NUISANCES

3.509 PENALTY. Any person who has or maintains a nuisance in violation of this chapter shall, upon conviction, be guilty of a simple misdemeanor punishable as provided by law. Each day of the continuance of such violation shall constitute a separate and distinct offense.

3.510 RIGHT OF ENTRY. The City Code Enforcement Officer, or designee, designated to enforce the provisions of the Winterset Municipal Code and abate Nuisances pursuant to this Chapter, is hereby authorized to enter onto any property upon which a junk, unlicensed or unregistered vehicle is located for the purpose of carrying out any and all actions required by this Chapter. Such person shall have the right to demand that the property owner prove that the vehicle is capable of being operated under its own power in accordance with this Chapter.

TITLE III CHAPTER 6 SIDEWALK RIGHT-OF-WAY MAINTENANCE AND USE  
REGULATIONS

- 3.601 CLEANING SNOW AND ICE ACCUMULATIONS
- 3.602 REMOVAL BY CITY
- 3.603 COLLECTION OF COST
- 3.604 DEBRIS
- 3.605 DRAINAGE ON STREETS AND SIDEWALKS
- 3.606 OBSTRUCTING STREETS AND SIDEWALKS
- 3.607 TEMPORARY EXEMPTION
- 3.608 ENFORCEMENT
- 3.609 LIABILITY

3.601 CLEANING SNOW AND ICE ACCUMULATIONS. It shall be the duty of the property owner and any property tenant to keep the entire portion of the sidewalks adjacent to, or abutting upon, any property owned or leased by them clear of the natural accumulation of snow and ice within twenty-four (24) hours of such time that the snow or ice has ceased falling or accumulating. Except as is required for the removal of the natural accumulation of snow and ice from the sidewalks adjacent to properties located within the Downtown Commercial District, it is unlawful for any person to throw, push or place, or cause to be thrown, pushed, or placed, any snow or ice from private property, sidewalks or driveways onto a street or alley.

3.602. REMOVAL BY THE CITY. If the property owner or property tenant permits snow or ice to accumulate in violation of Section 3.601, the Street Superintendent, or designee, may remove the accumulation of snow and/or ice without notice to the property owner or tenant. The Street Superintendent or designee shall keep an accurate account of the expenses incurred in removing the accumulation of snow and/or ice and shall provide such account to the City Administrator.

3.603 COLLECTION OF COST. The City Administrator shall mail a statement of the costs incurred by the City for the removal of the accumulation of snow and/or ice as authorized by Section 3.602, together with the administrative expenses of the City in connection therewith as determined by the City Administrator, to the property owner and tenant, if applicable. If the amount shown by the statement has not been paid within thirty (30) days from the date of the same was mailed, the City Administrator shall certify the costs to the Madison County Auditor and the same shall be assessed against the adjacent or abutting property and collected in the same manner as a property tax.

TITLE III CHAPTER 6 SIDEWALK RIGHT-OF-WAY MAINTENANCE AND USE  
REGULATIONS

3.604 DEBRIS. It shall be unlawful for any person to throw, discard, deposit or allow to remain on any street right-of-way, alley or sidewalk of the City any snow, ice, manure, rubbish, yard waste, mud, gravel, debris, junk or any other substance or material likely to injure any person, animal or vehicle. For purposes of this section "yard waste" shall be as defined in Municipal Code Section 3.801 and "junk" shall be as defined in Municipal Code Section 3.502.

3.605 DRAINAGE ON STREETS AND SIDEWALKS. It shall be unlawful for any person to construct any downspouts, gutters or drains from any building or yard so as to discharge any water upon any sidewalk. All such downspouts, gutters or drains shall carry water into the street, gutters, and storm sewers.

3.606 OBSTRUCTING STREETS AND SIDEWALKS. Except as specifically authorized in this section, it shall be unlawful for any person to place or cause to be placed upon or above any street, sidewalk, or alley any goods or merchandise for sale or for display in such a manner as to interfere with the free and unobstructed passage of pedestrians or vehicular traffic. Merchants in the Downtown Commercial Zoning District may use the sidewalk immediately adjacent to their place of business for one (1) temporary, portable business sign, as provided in Municipal Code Section 3.414; and may use the sidewalk immediately adjacent to their place of business for the temporary displays of goods, wares or merchandise, well-kept flower arrangements and well-constructed benches in good repair and condition, provided that a minimum five (5) foot width of unobstructed sidewalk be maintained and provided that no such placement of any item unduly restricts the flow of pedestrian or vehicular traffic.

3.607 TEMPORARY EXEMPTION. Upon written request, the City Administrator may grant temporary exemptions from the provisions of Section 3.604 for a specific number of days for construction and maintenance projects.

3.608 ENFORCEMENT. A police officer, or other official authorized by the City shall issue a written summons to the owner, tenant or other such person committing a violation of this Chapter. The summons shall contain the date and time of the violation, the location of the violation, and the number or name of the police officer other official issuing the summons. The person to whom the summons was issued within thirty (30) days of the date upon which the violation occurred shall pay to the City a fine of Fifty Dollars (\$50.00) for all violations of this Chapter. The fine prescribed herein shall be in addition to the costs to be collected pursuant to Section 3.603. The payment of the fine to the City within thirty (30) days of the date of the violation shall be deemed an admission of the

TITLE III CHAPTER 6 SIDEWALK RIGHT-OF-WAY MAINTENANCE AND USE

REGULATIONS

violation and no other costs or charges, other than the fine and costs collected pursuant to Section 3.603, shall be collected. Violations which are not paid within thirty (30) days of the date of the violation shall be deemed denied and may be charged by the same summons before the Court the same as other violations under Iowa Code Chapter 805 or cited as a Municipal Infraction under Iowa Code Chapter 364. Court costs shall be assessed against any person found to have committed a violation of this Chapter. All fine amounts shall be increased by Ten Dollars (\$10.00) if not paid within thirty (30) days of the date of the violation. Additionally, all persons found to have committed a violation of this Chapter shall remove all such items constituting the basis for the violation.

3.609 LIABILITY. Property owners shall be liable for damages caused by the failure of the owner to use reasonable care in complying with the provisions of the Chapter; and each said property owner shall hold the City of Winterset harmless with respect to any such liability to third parties suffering injuries of property damage as a result of their failure to use such reasonable care.

## 3.701 SHOOTING BLINDS

3.702 NUISANCE

3.703 FIREARMS

3.704 BOATS AND CANOES

3.701 SHOOTING BLINDS. No person shall erect, maintain, or use any shooting blind at the water reservoir.

3.702 NUISANCE. The maintenance of any shooting blind or other structure of any kind on city property at the water reservoir in violation of the provisions of this chapter shall constitute a nuisance and may be abated by the City as provided by this City Code.

3.703 FIREARMS. No person shall shoot or discharge any firearms of any kind at the water reservoir.

3.704 BOATS AND CANOES. No gasoline powered boats or canoes shall operate on the water reservoir. Boats or canoes with electric trolling motors will be permitted.

## 3.801 DEFINITIONS

## 3.802 SEPARATION OF YARD WASTE REQUIRED

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

3.802 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant of all premises within the City from all other garbage and refuse accumulated on the premises and shall be compost on the premises or placed in degradable bags, containers or packages and set out for collection by the refuse hauler retained by the owner or occupant or for removal by the owner or occupant in the manner provided by law.

3.901	PURPOSE
3.902	LEGISLATIVE INTENT
3.903	CONTROLLED SUBSTANCE DEFINED
3.904	DRUG PARAPHERNALIA DEFINED
3.905	DETERMINING FACTORS
3.906	PERSONS DEFINED
3.907	POSSESSION OF DRUG PARAPHERNALIA
3.908	MANUFACTURE, DELIVERY OR OFFERING FOR SALE OF DRUG PARAPHERNALIA
3.909	PENALTIES
3.910	NUISANCE

3.901 PURPOSE. The purpose of this ordinance is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

3.902 LEGISLATIVE INTENT. It is the purpose and intent of this City Council to promote the health, safety, and morals of the citizens of Winterset, Iowa. The use or administration of controlled substances is clearly illegal. The banning of all objects in close connection and adopted for the use of controlled substances should also be controlled because of the lack of social or practical purposes of such objects or paraphernalia, whether the use be by adults or minors. It is also strong public policy to protect children from the unsupervised exposure and familiarity of drug paraphernalia. In addition to education about the items in school and at home, it is also essential to discourage open use, possession, manufacture, and commerce of these drug related items.

3.903 CONTROLLED SUBSTANCE DEFINED. The term "controlled substance" as used in this Chapter shall be defined as the term "controlled substance" as defined in the Uniform Controlled Substance Act, Chapter 204 of the Iowa Code, as it now exists or is hereafter amended.

3.904 DRUG PARAPHERNALIA DEFINED. The term "drug paraphernalia" as used in this chapter shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 204 of the Iowa Code. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, container, spoons and mixing devices used, intended for use, or designed for use in packaging small quantities of controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metals bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;

- d. Smoking and carburetion masks;
- e. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes and chillers

3.905. DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

- 1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
- 2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any state or federal law relating to any controlled substance.
- 3. Proximity to Violation. The proximity of the object in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 204 of the Iowa Code.
- 4. Proximity to Substances. The proximity of the object to controlled substances.
- 5. Residue. The existence of any residue of controlled substances on the object.
- 6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 204 of the Iowa Code.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 204 of the Iowa Code, should not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning to its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

3.906. PERSON DEFINED. "Person", as used in this article, shall mean an individual corporation, business, trust, estate, partnership or association, or any other legal entity.

3.907. POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 204 of the Iowa Code.

TITLE III      CHAPTER 9      DRUG PARAPHERNALIA

3.908. MANUFACTURE, DELIVERY OR OFFERING FOR SALE OF DRUG PARAPHERNALIA. It is unlawful for any person to deliver, possess with the intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 204 of the Iowa Code.

3.909. PENALTIES. Any person, violating any provisions of this Chapter shall be guilty of a simple misdemeanor, and upon conviction thereof, be subject to a fine of not more than one hundred dollars (\$100.00) or be imprisoned for not more than thirty (30) days. Each day a violation occurs shall constitute a separate offense.

3.910. NUISANCE. In addition to the above, or in lieu thereof, violation of this Chapter shall constitute a nuisance which may be abated in the manner provided in Iowa Code 364.12(3)(h) by injunction in the Iowa District Court or in the manner set forth in Chapter 5 of Title III of this City Code.

- 3.1001 PURPOSE
- 3.1002 DEFINITIONS
- 3.1003 EXPOSURE RESTRICTIONS
- 3.1004 DANCING

3.1001 PURPOSE. The purpose of this Chapter is to regulate the public conduct of persons while present in public establishments.

3.1002 DEFINITIONS. The term "public establishment" as used in this Chapter shall mean a place of business or other activity accessible or visible to members of the community that is located within the City of Winterset, Iowa

3.1003 EXPOSURE RESTRICTIONS. No person who is acting as a waiter, waitress, host, hostess, dancer or entertainer or who is a business invitee on or about the premises of a public establishment whether or not the public establishment is licensed in the State of Iowa to sell beer, wine or liquor in order to amuse or entertain other persons in the establishment shall:

- 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.

Under this Section, a person shall be deemed a waiter, waitress, host, hostess, dancer, or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the owner and/or operator of the public establishment or their agent or employee or by any invitee or occupant of the public establishment and shall not be deemed a waiter, waitress, host, hostess, dancer, or entertainer if such person's performance is by recorded visual image rather than by live performance.

3.1004 DANCING. Dancing is authorized in connection with the operation of a beer, wine or liquor business provided that:

- a. The floor space used for dancing purposes contains at least one hundred (100) square feet which shall be of the same general floor level as the place where the beer, wine or liquor is dispensed; and,
- b. The space to be used for dancing shall be in the same room as, or in a room adjacent to and opening directly from the place where beer, wine and liquor is dispensed; and,

c. The floor space shall not be obstructed or crossed in any part or portion by partitions or other obstructions of any kind except necessary structural posts, pillars or similar supports.

TITLE III CHAPTER 11 FALSE REPORTS AND ALARMS

3.1101 FALSE REPORTS TO LAW ENFORCEMENT AND FIRE DEPARTMENTS  
3.1102 DEFINITIONS  
3.1103 TESTING  
3.1104 FEES FOR FALSE ALARMS  
3.1105 DISCONNECTION OF ALARM SYSTEM-EXCESSIVE FALSE ALARMS  
3.1106 EVIDENCE OF FALSE ALARMS

3.1101 FALSE REPORTS TO LAW ENFORCEMENT AND FIRE DEPARTMENTS

A person who reports or causes to be reported false information to the Fire Department or Law Enforcement authority, knowing that the information is false, or who reports the alleged occurrence of a criminal act, knowing the same did not occur, commits a simple misdemeanor punishable upon conviction as provided by law.

3.1102 DEFINITIONS

"Alarm System" means an assembly of equipment and devices or a single device such as a solid-state unit that uses a electrical energy to signal the presence of a hazard requiring urgent attention and to which Police Department or Fire Department is expected to respond. In this Chapter the term "alarm system" includes, but is not limited to the terms "automatic holdup alarm system", "burglar alarm system", "holdup alarm system", and "manual hold up alarm system", as those terms are defined in this Chapter.

"Automatic holdup alarm system" means an alarm in which the signal transmission is initiated by the action of the perpetrator.

"Burglar alarm system" refers to an alarm system signaling an entry or attempted entry into the area protected by the system.

"False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, without an unlawful entry, or through the negligence of the owner or lessee of an alarm system or such person's employees or agents or other cause.

"holdup alarm system" refers to an alarm system signaling a robbery or attempted robbery.

"Manual holdup alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

"Police Chief" means the Chief of the City Police Department or a designated representative.

TITLE III CHAPTER 11 FALSE REPORTS AND ALARMS

"Fire Chief" means the Chief of the City Fire Department or a designated representative.

"Subscriber" means a person who buys or leases or otherwise obtains an alarm signaling system and contracts with or hires an alarm business to monitor or service the alarm device.

3.1103 TESTING

A. No alarm system designed to transmit emergency messages directly to the Police or Fire Departments shall be tested or demonstrated without first notifying the Police Department.

B. No alarm system relayed through intermediate services to the Police or Fire Department will be tested to determine Police response without first notifying the Police Department.

C. Any testing done without proper advance notification shall be classified as a "false alarm" for purposes of this Chapter. All notices shall be prior to the testing date unless the Police Chief gives special permission otherwise. All notices shall include the time, date, owner's or subscribers name, address and the name of the representative responsible for the testing, and such person's employee name, address and telephone number, if applicable.

3.1104 FEES FOR FALSE ALARMS. Any owner or lessee of any alarm system who has more than three (3) false alarms in any one calendar year to which the Police Department and/or Fire Department has responded shall be charged a fee of Twenty-five Dollars (\$25.00) for the fourth and each subsequent violation occurring in the calendar year. Each calendar year shall be a new period for purpose of the imposition of this fee.

3.1105 DISCONNECTION OF ALARM SYSTEM--EXCESSIVE FALSE ALARMS. The Police Chief or Fire Chief is authorized to require the owner or lessee of any alarm system directly connected to the departments to disconnect such device until the device is working in a manner as will not cause a high frequency of false alarms. The Police Chief or Fire Chief may require disconnection if ten (10) false alarms are received in any twelve (12) month period. The Police Chief or Fire Chief may, after giving written notice to the subscriber, order disconnection of the alarm system from the Police and/or Fire Departments.

TITLE III CHAPTER 11 FALSE REPORTS AND ALARMS

3.1106 EVIDENCE OF FALSE ALARMS. The Police Chief or designated representative shall determine in each instance whether or not an alarm given to the Police and/or Fire Departments is a false alarm. The Police Chief shall consider all relevant circumstances including evidence such as the alarm being set off by the perpetrator who fled the scene leaving signs of forced entry.

3.1201 OPEN BURNING PROHIBITED. No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain any open fire within the City corporate limits except as provided in this Chapter.

3.1202 DEFINITIONS. For the purpose of this Chapter, these words shall have the following meanings:

1. "Persons" includes any individual, firm, corporation, partnership, trust or any other organized group or association of any kind.

2. The terms "Combustible Material", "Flare Stacks", "Landscape Waste", "Open Burning", "Recreational Fires", "Refuse", "Rubbish", "Residential Waste", "Compost", "Garbage", and "Yard Waste" shall have the same meaning in this Chapter as these terms are defined and used in the Iowa Code and the Iowa Administrative Code.

3.1203 EXCEPTION TO OPEN BURNING.

A. Open burning of the following types will be allowed provided the burning complies with the State Fire Marshall guidelines:

1. Disaster Rubbish: The City may burn landscape waste as provided by Iowa Code Chapter 455B during a declared disaster period when an officially declared emergency exists.

2. Prescribed Agricultural Burns: The open burning of agricultural fields will be allowed if necessary for the maintenance of native prairie grass. "Agricultural Fields" for purposes of this Chapter means an open land area more than fifty feet (50') from a building or wooded area.

3. Training Fires: Fires set for the purpose of bona fide instruction and training of public, institutional or industrial employees in the methods of firefighting provided the training is conducted according to State Fire Marshall guidelines.

4. Flare Stacks: Open burning or flaring of waste gas will be permitted provided such open burning is conducted in compliance with the Iowa Administrative Code.

5. The owner of a lot within the R-1 or R-2 residential zoning district having an acreage of three (3) acres or more; or, the owner of a parcel within CO-Conservation-Open Space Zoning District or the A-Agriculture Zoning District may burn landscape waste originating on the premises, provided such fires are located more than fifty feet (50') from a building or wooded area, and provided such fires comply with the Iowa Administrative Code including the limits for emissions of visible air contaminants. Such a fire must be consistently supervised by a competent person, are limited to the hours between eight o'clock (8:00) a.m. and twelve o'clock a.m. midnight, and must be conducted in a safe, nuisance-free manner, when wind and weather

conditions minimizes adverse effects and do not create a health or visibility hazard.

B. Recreational Fires: Open fires for cooking, heating, recreation and ceremonies of the following types will be allowed, provided such fires otherwise comply with this Chapter and with the Iowa Administrative Code including the limits for emission of visible air contaminants:

1. Ceremonial or Controlled Bonfires: Ceremonial or controlled bonfires will be allowed upon issuance of a permit by the Fire Department, provided that only firewood and kindling is burned.

2. Outdoor cooking in a barbecue grill is permitted if performed in a non-combustible container constructed of steel, brick or masonry, or comparable materials, provided that only gas grills or grills burning charcoal or firewood are used.

3. Burning in an outdoor fireplace is permitted in a non-combustible container constructed of steel, brick or masonry, or comparable materials, provided that only firewood and kindling is burned.

4. Campfires are permitted in designated locations within established campgrounds, public parks, and at the city reservoir, provided that only firewood and kindling is burned.

C. Recreational fires shall further comply with the following provisions:

1. Recreational fires will be limited to the hours between eight o'clock (8:00) a.m. and twelve o'clock a.m. midnight of any day.
2. Recreational fires shall be located at least 25 feet from the nearest structure not on the same property.
3. No landscape waste, yard waste, rubbish or refuse may be burned in a recreational fire.
4. Recreational fires must be constantly supervised by a competent person until the fire is extinguished.
5. Recreational fires must be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health or visibility hazard.

## 3.1301 LICENSE FOR KEEPING A DOG

Anyone keeping a dog more than 6 months of age within the City of Winterset shall obtain a license from the City of Winterset for such dog. In order to license a dog, the owner of the dog shall provide the City with a copy of a current rabies vaccination certificate.

The license application shall be on such form as prescribed by the City Council; shall state as to each dog the breed, sex, age, color, markings and name (if any), the name and address of the dog's owner(s) and shall be signed by the owner(s); and, shall be filed with the Office of the City Administrator at City Hall.

The license fee shall be waived for a service dog which provides assistance to an individual with a disability, for a search and rescue dog, for a dog used by a governmental entity for law enforcement or public safety purposes, and for a dog that has been retired from any of these aforementioned uses.

The license fee shall be waived for dogs kept in a state licensed animal rescue shelter or kept by an individual who fosters dogs for a licensed animal rescue shelter.

The annual license is waived for dogs kept in a state licensed commercial dog breeder kennel located in an agricultural or commercial zoning district.

A license tag shall be securely attached to the collar of the dog at all times.

3.1302 LICENSE FEE. The annual license fee for keeping a dog is established at \$15 per dog.

The license fee shall be decreased by \$5 if the dog has been spayed or neutered. An applicant claiming that a dog has been spayed or neutered shall present as evidence an appropriate certificate from a qualified veterinarian.

The dog license shall expire on December 31st each year. If the owner of the dog does not renew the license within 1 month of the expiration date, or if a dog is not licensed within 1 month of attaining 6 months of age, a late payment fee of \$20 shall be added to the license fee.

The annual license fee is non-refundable. The fee for a license purchased during the calendar year for less than a year-long time period shall be prorated on a monthly basis.

3.1303 ANIMAL CARE. All owners of any animal shall comply with the following standards of care.

1. Every owner shall provide adequate food and water for each animal. Adequate food shall be provided at intervals appropriate for the species, suitable for the physical condition and age of the animal, served in a clean receptacle, and sufficient to maintain an adequate level of nutrition for such animal. Every owner shall provide access to a supply of clean, fresh, potable water.

2. Every owner shall provide adequate outdoor shelter for such animal when it is kept outdoors, which shall mean a structurally sound, weather-proof, ventilated shelter, which provides access to shade from direct sunlight and protection from exposure to weather conditions. Adequate space shall be provided which shall be appropriate for the particular species of animal.

3. Every owner shall provide adequate sanitation which shall mean periodic cleaning or sanitizing housing facilities and any area where the animal is confined or restrained to remove excreta and other waste materials and dirt, so as to minimize vermin infestation, odors and disease hazards.

4. Every owner shall provide adequate veterinary care, including immunizations as required by Iowa law.

5. A dog that is tethered shall be able to move about freely. The tether shall be a minimum of ten linear feet in length and shall swivel on the end. Tow chains shall not be used. A dog when tethered shall wear a collar, harness or similar device that fits properly to prevent injury or obstruction of respiration. Choke, pinch, prong, or other chain collars shall not be used on a dog that is tethered.

6. No person shall keep or maintain any animal subject to this Chapter in unsanitary and unhealthy conditions, or to otherwise create conditions that constitute a public or private nuisance. If such conditions exist, then the City Administrator, or his designee, shall give written notice to the keeper of such animal(s) of the violation(s) of this Chapter; such notice shall advise such keeper of their opportunity for hearing before the Mayor to contest the violation(s), which request for hearing must be filed in writing with the Office of the City Administrator within three (3) days of the date of service of the notice; and, shall advise the keeper of such animal(s) that their failure to timely appeal the violation(s) of this Chapter to the Mayor will cause the Removal Order to become final. Upon the Mayor's hearing or after the running of the appeal period if no hearing request is filed, the Mayor is authorized to order such numbers of dogs and cats to be reduced at the dwelling unit and/or to order the conditions constituting the nuisance to be timely abated. The notice prescribed above shall be served by certified mail or by personal service upon the owner or keeper of the animals at least seven (7) days before the date of the hearing. Any appeal of the Mayor's Order shall be within thirty (30) days of the Order to the Iowa District Court for Madison County. This administrative procedure shall be an additional remedy for the City and shall not be in lieu of the other penalties available to the City under Section 3.1305.

3.1304. CLEANUP AFTER DOGS. Any person, who walks a dog or takes a dog upon public property, public right-of-way, parks, school grounds, playgrounds, or the private property of another person, shall clean up, remove and dispose of solid waste excreted or deposited upon such public or private property by such animal. This section does not apply to an animal under the direct control of a person with disabilities, which animal is specially trained for the purpose of assisting such person.

3.1305 PENALTY. A police officer, or other enforcement official authorized by the City, upon determining that probable cause exists that an owner as defined in this Chapter has violated any provision of this Chapter, may issue a written summons to the owner(s) for such violation(s). The summons shall include the owner(s) name and last known address, the date and approximate time of the violation(s), the location of the violation(s), a brief and concise description of the violation(s), the Code Section(s) violated, and the number or name of the police officer or other City enforcement official issuing the summons. The owner within thirty (30) days of the date the summons is issued shall pay to the City a fine of Twenty-five Dollars (\$25.00) for all first offense violations of this Chapter; a fine of Fifty Dollars (\$50.00) for all second offense violations of this Chapter; and, a fine of One Hundred Dollars (\$100.00) for all third and subsequent violations of this Chapter. The payment of the fine to the City within thirty (30) days of the date the summons is issued shall be deemed an admission of the violation and no other costs or charges other than the fine shall be collected. Violations which are not paid within thirty (30) days of the date the summons is issued shall be deemed denied by the owner(s). In this event the City may thereupon charge the owner(s) by the same or a similar written summons before the Magistrate Court in the same manner and procedure as traffic violations under Iowa Code Chapter 805 including the assessment of court costs as provided by that Iowa Code Chapter. All fines shall be increased by Five Dollars (\$5.00) if not paid within thirty (30) days of the date of the initial summons being issued by the City. In determining if a violation charged is a second or subsequent offense for purposes of sentencing under this Chapter, the Court shall consider a summons issued for a violation of this Chapter as being one (1) violation for purposes of sentencing; each previous summons for a violation on which conviction, or admission of violation, was entered prior to the date of the current violation charged shall be considered and counted as a separate previous offense; and, any conviction, or admission of violation, entered more than six (6) years prior to the date of the current violation charged shall not be considered and counted as a separate previous offense under this Chapter. In addition, any violation of this Chapter, or any provision thereof, shall be a municipal infraction subject to the provisions of Iowa Code Section 364.22, as amended.

- 3.1401 FIREWORKS
- 3.1402. DEFINITIONS
- 3.1403. DISCHARGING REQUIREMENTS
- 3.1404. OWNER/OCCUPANT RESPONSIBILITY
- 3.1405. VIOLATIONS

3.1401 FIREWORKS. The use or explosion of fireworks within the City of Winterset is subject to the following rules and restrictions.

3.1402. DEFINITIONS. For purposes of this Code section, the definitions enumerated in Iowa Code 727.2 are adopted. Such definitions are incorporated, as though fully set forth herein, by this reference.

3.1403. DISCHARGING REQUIREMENTS.

- A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without the direct supervision of his or her parent or legal guardian.
- B. A person shall only discharge a consumer fireworks device on real property owned by them or on real property where the owner of the real property has given consent to the discharge and for so long as such person disposes of any and all debris and remnants resulting from such discharge EXCEPT:  
No consumer fireworks may ever be discharged on real property located between North Street and South Street and between 3<sup>rd</sup> Avenue and 3<sup>rd</sup> Street.
- C. No consumer fireworks may be discharged on any public property within the City of Winterset, including but not limited to parks, streets, rights-of-way, sidewalks, recreation trails, without permission issued by the City of Winterset. Novelties, including snakes, sparklers or caps, may be discharged on public property within the City of Winterset for so long as all trash, wrappers and wires are disposed of properly.
- D. All persons discharging a consumer fireworks device assume all responsibility for its operation and the consequences thereof. No person shall discharge a consumer fireworks device in a reckless manner or manner likely to cause death, injury, fire or property damage.
- E. No person shall discharge a consumer fireworks device other than during the following dates and times:

- (1) July 2<sup>nd</sup> and July 3<sup>rd</sup> between the hours of 12:00 Noon and 10:00 p.m.;
- (2) July 4<sup>th</sup> between the hours of 12:00 Noon and 11:00 p.m.; and
- (3) December 31<sup>st</sup> from 12:00 Noon through January 1 at 1:00 a.m."

- F. It shall be unlawful to alter, remove or discharge components of a consumer fireworks device from its intended method of discharging.
- G. Sky lantern open flame devices are not permitted to be released within the corporate limits of the city, except if tethered by a retrievable and only for so long as the person discharging the device has control over the sky lantern.

3.1404. OWNER/OCCUPANT RESPONSIBILITY. No person shall allow, permit, or otherwise consent to the discharge of a consumer fireworks device in violation of this Chapter.

3.1405. VIOLATIONS. Any person found guilty of a violation of this Chapter shall, upon conviction, be subject to a fine as follows:

First Offense:	\$400.00
Second Offense:	\$600.00
Third and Subsequent Offenses:	\$800.00

Any violation of this Chapter may be prosecuted as a municipal infraction, either in lieu of or in addition to, the criminal prosecution of such violation as a simple misdemeanor.

TITLE IV CHAPTER 1 BUILDING CODES

- CHAPTER ONE - BUILDING CODE
- CHAPTER TWO - ELECTRICAL CODE
- CHAPTER THREE - PLUMBING CODE
- CHAPTER FOUR - INTERNATIONAL FIRE CODE
- CHAPTER FIVE - MECHANICAL CODE
- CHAPTER SIX - PROPERTY MAINTENANCE CODE
- CHAPTER SEVEN - PERMIT FEES
- CHAPTER EIGHT - ENERGY CODE
- CHAPTER NINE - PLANNING AND ZONING COMMISSION
- CHAPTER TEN - SUBDIVISIONS
- CHAPTER ELEVEN - SIDEWALKS
- CHAPTER TWELVE - ZONING
- CHAPTER THIRTEEN - AIRPORT TALL STRUCTURE ZONING
- CHAPTER FOURTEEN - UNFAIR OR DISCRIMINATORY HOUSING PRACTICES
- CHAPTER FIFTEEN - EXCAVATION REQUIREMENTS FOR DEMOLITION OF BUILDINGS
- CHAPTER SIXTEEN - FLOOD PLAIN MANAGEMENT

TITLE IV CHAPTER 1 BUILDING CODES

- 4.101 CODE ADOPTED
- 4.102 PENALTIES
- 4.103 SUBMITTAL DOCUMENTS

4.101 CODE ADOPTED. The 2021 International Residential Code, 2021 Building Code (Commercial) and 2021 International Existing Building Code as published by the International Code Council, are hereby adopted in full, including all Appendices thereto, except as may be deleted, modified or amended; and, as is fully set forth in Appendix E to the Winterset Municipal Code and which shall be and hereby is incorporated herein by such reference and adopted as the Building Code of the City of Winterset.

4.102 PENALTIES. In addition to any other penalties provided by this City Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

4.103 SUBMITTAL DOCUMENTS. The construction documents shall be prepared by a Registered Design Professional as required under the Building Code Section 106 for all construction other than one and two family dwelling units.

4.201	CODE ADOPTED
4.202	ENFORCEMENT
4.203	DEFINITION
4.204	MODIFICATION
4.205	APPEALS
4.206	PENALTIES

4.201 CODE ADOPTED. The 2020 National Electrical Code, State of Iowa Edition, as published by the National Fire Protection Association, is hereby adopted in full, including all Appendices thereto, except as may be deleted, modified or amended; and, as is fully set forth in Appendix E to the Winterset Municipal Code, which shall be and hereby is incorporated herein by such reference and adopted as the Electrical Code of the City of Winterset.

4.202 ENFORCEMENT. The Code shall be enforced by the Building Inspector, the Superintendent of the Electric Light and Power Plant, and other designated City officials.

4.203 DEFINITION. Wherever the word "municipality" is used in the Code, it shall be held to mean the City of Winterset, Iowa.

4.204 MODIFICATIONS. The Building Inspector shall have the power to modify any of the provisions of the Code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications when granted or allowed and the decision of the Building Inspector thereon shall be entered upon the records of the department and a signed copy shall be furnished to the applicant.

4.205 APPEALS. Wherever the Building Inspector shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of this Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Building Inspector to the Board of Appeals within 14 days from the date of the decision appealed.

4.206 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

4.301        CODE ADOPTED  
4.302        PENALTIES

4.301        CODE ADOPTED.    The 2021 Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials, and amended by the State of Iowa, is hereby adopted in full, including all Appendices thereto, except as may be deleted, modified or amended; and, as is fully set forth in Appendix E to the Winterset Municipal Code, which shall be and hereby is incorporated herein by such reference and adopted as the Plumbing Code of the City of Winterset.

4.302        PENALTIES.    In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

TITLE IV CHAPTER 4 INTERNATIONAL FIRE CODE

- 4.401 CODE ADOPTED
- 4.402 PENALTIES

4.401 CODE ADOPTED. The 2021 International Fire Code, as published by the International Code Council, is hereby adopted in full, including all Appendices thereto, except as may be deleted, modified, or amended; and, as is fully set forth in Appendix E to the Winterset Municipal Code, which shall be and hereby is incorporated herein by such reference and adopted as the Fire Code of the City of Winterset.

4.402 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provisions of this Chapter shall be guilty of a municipal infraction with remedies to the to the City as provided by this Code.

TITLE IV

CHAPTER 5 MECHANICAL CODE

- 4.501      CODE ADOPTED  
4.502      PENALTIES

4.501      CODE ADOPTED. The Uniform Mechanical Code, 2003 edition, as published by the International Association of Plumbing and Mechanical Officials, be hereby established and adopted by reference as the Mechanical Code of the City of Winterset, Iowa.

4.502      PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

4.601      CODE ADOPTED  
4.602      PENALTIES

4.601 CODE ADOPTED. The 2021 International Property Maintenance Code, as published by the International Code Council, is hereby adopted in full, including all Appendices thereto, except as may be deleted, modified or amended; and, as is fully set forth in Appendix E to the Winterset Municipal Code, which shall be and hereby is incorporated herein by such reference and adopted as the Property Maintenance Code of the City of Winterset.

4.602 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

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4.701      BUILDING PERMIT FEES  
4.702      EXPIRATION OF PERMITS

4.701      PERMIT FEES. A property owner or their agent or designee shall apply for and obtain permits prior to building or moving a structure; wrecking or demolishing a building; installing a mechanical heating, ventilation, or cooling appliance; doing plumbing work, including replacing a water heater; or doing electrical work. Application for permits shall be made on such forms and in such manner as prescribed by City officials. Before receiving a permit, the property owner or their agent or designee shall pay permit fees as established by resolution of the Winterset City Council.

4.702      EXPIRATION OF PERMITS. All permits, except demolition permits shall expire 18 months from date of issuance. Demolition permits shall expire 6 months from date of issuance.

## 4.801 ENERGY CODE

4.801 ENERGY CODE. Pursuant to Iowa Code Section 380.10, the City of Winterset, Iowa does hereby establish, declare and adopt by reference the International Energy Conservation Code, 2000 Edition, as published by the International Code Council to be the Energy Code of the City for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the City of Winterset and providing for the issuance of permits and collection of fees therefore; and, each and all of the regulations, provisions, conditions and terms of such International Energy Conservation Code, 2000 Edition, published by the International Code Council, on file in triplicate in the office of the City Administrator.

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TITLE IV CHAPTER 9 PLANNING & ZONING COMMISSION

- 4.901 PLANNING AND ZONING COMMISSION CREATED
- 4.902 TERM OF OFFICE AND COMPENSATION
- 4.903 POWERS

4.901 THE PLANNING AND ZONING COMMISSION shall be seven (7) persons at least five (5) of whom shall reside within the City corporate limits and two (2) of whom may reside within two (2) miles of such corporate limits. The members 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. All members shall be appointed by the City Council.

4.902. TERM OF OFFICE AND COMPENSATION. The term of office of the members shall be four (4) years with the terms staggered so that no more than four (4) members will be appointed in any one calendar year. Any vacancy occurring on the Commission caused by resignation or otherwise shall be filled by the Council for the unexpired term. Each Commission member shall be compensated for meeting attendance at a rate to be fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.903 POWERS. The Commission shall have and possess the following powers, and such other powers as may be incidental to the successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law:

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

2. To prepare a comprehensive zoning ordinance 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.

TITLE IV CHAPTER 9 PLANNING & ZONING COMMISSION

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

4. To study future conditions.
5. To survey street and traffic problems.
6. To survey and study new subdivision.

4.1001	TITLE
4.1002	JURISDICTION AND PURPOSE
4.1003	DEFINITIONS
4.1004	PROCEDURE
4.1005	SUBDIVISION DESIGN STANDARDS
4.1006	LAND SUITABILITY
4.1007	IMPROVEMENTS
4.1008	MINOR SUBDIVISIONS
4.1009	PRELIMINARY PLAT REQUIREMENTS FOR MAJOR SUBDIVISIONS
4.1010	FINAL PLAT REQUIREMENTS FOR MAJOR SUBDIVISIONS
4.1011	VARIANCES
4.1012	FEES
4.1013	ENFORCEMENT
4.1014	COMMISSION REGULATIONS

4.1001 TITLE. These regulations shall be known as the Subdivision Ordinance of Winterset, Iowa, and shall also be known as Title IV, Chapter 10 of the Winterset Municipal Code of 1992.

4.1002 JURISDICTION AND PURPOSE. This Chapter governs the subdivision of all lands within the corporate limits of the City and in an area within two miles outside the corporate limits to the full extent provided by Chapter 354 of the Code of Iowa.

A. Exclusions: The provisions of this chapter shall not apply to:

1. Mortgages, easements or leases for a term not to exceed ten years
2. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the abutting lots are not reduced below the minimum sizes required by this ordinance or the zoning ordinance.

B. Purpose: To provide for the health, safety and general welfare of the city; to provide efficiency in the provision of municipal infrastructure and to provide for the overall quality of life.

4.1003 DEFINITIONS. For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular; the word "shall" is mandatory, and the word "may" is permissive.

Architect:

An architect is a registered architect authorized to practice architecture as defined by the laws of the State of Iowa.

Block:

An area of land within a subdivision that is entirely bounded by streets, highways, parks, railroad or similar fixed land division and/or exterior boundaries of the subdivision.

Collector Streets:

Those streets 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.

Commission:

The Planning and Zoning Commission of Winterset, Iowa.

Council:

The City Council of Winterset, Iowa.

Cul-de-sac:

A short, minor street having one end open to motor traffic; the other end being permanently terminated by a vehicular turnaround.

District:

A section or sections of land area depicted on the Official Zoning Map as provided by the zoning regulations governing the use of buildings and land within the City.

Easement:

A grant by the property owner of the use, for a specific purpose, of an area of land by the general public, a corporation, or a certain person or persons, and within the limits of which the land owner shall not erect any permanent structures but shall have the right to make any other use of the land subject to the terms of such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove vegetation that interferes with the use of such easements.

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Engineer:

An Engineer is a Registered Engineer authorized to practice engineering as defined by the laws of the State of Iowa.

Frontage Street:

A street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic, with limited access to the major thoroughfare.

Loop Lane Street:

A short, minor one-way directional street within a residential subdivision having one traffic lane and one parking lane for vehicles which connects to a Collection Street and which is dedicated to the City.

Lot:

A tract of land represented and identified by number or letter designation on an official plat.

Maintenance Bond:

A surety bond or cash deposit (including Irrevocable bank letter of credit) made payable to and held by the City in an amount equal to the full cost of the improvements as determined by the City sufficient to guarantee to the City that the improvements have been constructed to the approved plans and specifications of the City and are free from inferior and/or defective workmanship or materials and to maintain or keep these improvements in good repair and condition for the term provided in this Chapter.

Performance Bond:

A surety bond, cash deposit or irrevocable bank letter of credit made out to the City of Winterset in an amount equal to the full cost of the improvements which are required by this Chapter, said cost being estimated by the City Engineer, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with this Chapter and any attached conditions.

Plat:

A subdivision plat that meets the requirements of Chapter 409A of the Code of Iowa and this Chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

Recreational Trail:

Any road, path, or way specifically designed to accommodate recreational non-motorized travel, regardless of whether such facilities are designated for the exclusive use of recreational trails or are to be shared with other transportation modes.

Roadway:

That portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

Street:

A public thoroughfare which affords the principal means of access to the abutting property.

Subdivider:

The term "subdivider" means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein and includes any agent of the subdivider.

Subdivision:

A tract of land divided into two or more lots each of twenty acres or less in size.

Minor Subdivision:

A tract of land divided into four lots or less within a five year period, and which division does not include or require any new public streets or municipal infrastructure.

Major Subdivision:

The dividing of any tract which is not a Minor Subdivision and which is prepared and reviewed according to the preliminary and final plat procedures of this chapter.

Surveyor:

A registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the Code of Iowa.

4.1004 PROCEDURE. In obtaining the final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat and a final plat in accordance with the following order and procedure:

TITLE IV Chapter 10 SUBDIVISIONS

A. The subdivider shall first arrange a meeting with the Zoning Administrator for pre-application coordination as provided for in 4.1009,A.

B. The subdivider shall prepare and file with the Zoning Administrator eight copies of a preliminary plat conforming in detail to the requirements set forth in this Chapter. Eight copies of the preliminary plat shall be submitted for subdivisions outside the corporate limits of the City.

C. The Zoning Administrator shall forthwith refer two copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the County Zoning Administrator shall refer two copies of the preliminary plat to the City Planning and Zoning Commission.

D. The Zoning Administrator shall carefully examine said plat as to its compliance with the laws and ordinances of the City, the existing street system, good engineering practices, and shall as soon as possible, submit his findings in duplicate to the Commission. If deemed necessary, the Zoning Administrator may refer the preliminary plat to a registered engineer and others as necessary to the case for findings and recommendations.

E. After receiving the Zoning Administrator's report, the Commission shall study the preliminary plat and other material for conformity thereof to these regulations. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve, approve conditionally or reject the preliminary plat.

F. Before approving a preliminary plat, the Commission may, at its discretion, hold a public hearing on the proposed plat, with notification to those parties as determined by the Planning and Zoning Commission.

G. After the Commission approves a preliminary plat, the subdivider shall complete the final plat and of any detailed construction drawings and specifications for the improvements required under this Chapter.

TITLE IV Chapter 10 SUBDIVISIONS

H. Before submitting the final plat to the Commission for approval, the subdivider shall furnish the Zoning Administrator all plans and specifications required by Section 4.1008 of this Chapter necessary for the construction of the improvements required under this Chapter. These plans and specifications shall be endorsed by a engineer certifying them to be in compliance with all state and city regulations.

I. The final plat shall be filed in duplicate with the Zoning Administrator. The final plat shall be accompanied by the documents required by Chapter 354 of the Code of Iowa and this Chapter. In addition, the subdivider shall include either the engineer's certificate that all improvements required by this Chapter have been installed in accordance with the approved plans and specifications or the bond required by Section 4.1006 of this Chapter.

J. The Commission shall then consider the final plat and accompanying documents. If the final plat is approved by the Commission, the Commission shall submit their recommendations to the Council together with a certified copy of a resolution showing the action of the Commission.

K. The Council shall then consider the final plat and all matters related thereto. In considering the final plat, the Council shall assure that the proposed development conforms to the standards and conditions of state and city law and to the city's Comprehensive Plan. The council shall approve, approve conditionally or reject the final plat within ninety days after receipt of the Plan commission's resolution on the plat. If approved, the Council shall cause the resolution approving the plat to be certified as provided by law.

L. If the plat is approved by the Council, the subdivider shall cause such plat to be recorded in the Office of the County Recorder as provided in Chapter 354 of the Code of Iowa and shall file written evidence with the City Administrator's office before the city shall recognize the plat as being in full force and effect.

M. Plats In Unincorporated Areas. The provisions of this chapter shall apply to all proposed plats within two miles of Winterset's city limits, as they existed at the time such plat is proposed. In reviewing all such plats the city shall consider the plat's compliance with the city's Comprehensive Plan and shall not approve any such plat which is in substantial conflict with said Comprehensive Plan. The city Planning Commission, with council approval, may waive its right to review such plat if it determines by specific written report that the nature of such plat is such that city planning, growth or other city development interests are clearly not affected by the proposed plat. If the review of such plat under this chapter is waived by the Council, the city shall notify the County Zoning Administrator in writing of this action. No plat as defined by this chapter shall be considered final and eligible for recording in the county recorder's Office unless it is accompanied by a resolution from the City Council indicating city approval or conditional approval or evidence of the city's waiver of review.

4.1005 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances; however, in the design and development of a plat, the subdivider should use standards consistent with the site conditions to assure an economical, pleasant and durable neighborhood.

A. BLOCKS

No block shall be longer than 1,320 feet.

B. EASEMENTS

Ten (10) feet on each side of a lot line or twenty (20) total feet shall be provided for along the rear or side of lot lines for easements for utilities.

Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall whenever possible not disturb the natural watercourse. In the event it is deemed necessary by the subdivider to disturb or change the water course in any way, then the subdivider shall comply with all federal, state and local laws and regulations and shall at their expense submit to the Commission for its approval a plan showing compliance therewith. The subdivider shall dedicate to the City an easement along each side of the stream or other drainage course. Such easements shall be for the purpose of widening, improving, maintaining or protecting the function of the stream or watercourse. The width of such easement shall be consistent with the Comprehensive Plan or County Drainage District Plan if applicable. The minimum width of such easements shall include the stream course and be not less than forty feet back from the top of each stream bank, or forty feet each way from the center line of a drainage way identified as such by the Plan commission.

C. LOTS

1. Corner lots shall be not less than twenty feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets. All lots adjoining any public or private street shall have a minimum thirty-foot setback line from the right of way.

2. Double frontage lots other than corner lots shall be avoided.

3. Each lot shall be provided with access to a public street.

4. Each lot shall be provided with not less than forty feet (40') of access frontage to a public street, except for lots fronting on a cul-de-sac radius.

5. No lot shall be less in size or shape than that required to provide an adequate building site in compliance with the Chapter 12 of this Title.

6. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:

Lots which cannot be reasonably served by an existing public sanitary sewer system shall have a minimum width of 120 feet, measured at the setback line, and an area of not less than 20,000 square feet or the minimum permitted by the Chapter 12 of this Title, whichever is the larger. However, in such cases the subdivider shall submit with the preliminary plat soil percolation test results for each lot showing each lot to be of sufficient size and otherwise suitable for a septic tank system meeting state and county sanitary codes.

7. Side lot lines where possible shall be at right angles or radial to the street lines.

D. SURVEY MONUMENTS

Survey Monuments shall be placed at block corners, point of curves, and change in direction along lot lines and at each lot corner in accordance with city specifications.

E. STREETS AND RIGHTS-OF-WAY

1. Alleys

Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. A special exception may be granted for alleys in residential areas. Dead end alleys shall be provided with a means of turning around at the dead end.

2. Circulation

The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares or un-subdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turnaround shall be required by the City.

3. Comprehensive Plan

All proposed plats and subdivisions shall conform to the Comprehensive Plan.

4. Continuation of Existing Streets

Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) to adjoining property at equal or greater width, but not less than sixty-six (66) feet in width, and in similar alignment, unless variations are recommended by the Commission.

5. Cul-de-sac

Whenever a cul-de-sac is permitted, such street shall comply with sound engineering design and planning standards and be approved by the City. Cul-de-sac length shall be in accord with the conditions of the topography, and the permitted length shall be determined based on the relationship to the location of planned future streets shown in the Comprehensive Plan.

6. Dedication

Streets shall be dedicated to the city, and other land incident to the subdivision shall be dedicated in the manner prescribed by Chapters 409A and 354 of the Code of Iowa.

7. Half Streets

Dedication of half streets is hereby prohibited.

8. Major Streets

When a new subdivision, except where justified by limiting conditions, involves frontage on an arterial street or state highway with an annual average daily traffic (AADT) count of 10,000 or more recorded by the Iowa Dept of Transportation, the street layout shall provide vehicle access to such street or highway by means of a frontage or other collector street system.

9. Physical and Cultural Features

In general, streets shall be platted with appropriate regard for topography, watercourses, wooded areas, public and institutional areas and other natural features which would lend themselves to attractive treatment and avoidance of disruptive effects of streets and traffic.

10. Street Grades

Streets and alleys shall be completed to grades which have been officially determined or approved by the City. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six per cent for primary and secondary streets, or ten per cent for collector or minor streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length equivalent to twenty times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City; for secondary and minor streets, fifteen times. The grade alignment and resultant visibility especially at intersections shall be worked out in detail to meet the approval of the City.

11. Street Intersections

Street intersections shall be as nearly at right angles as possible.

12. Street Names

All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall be subject to the approval of the City in order to avoid duplication or close similarity of names; and proposed street names shall also be reviewed by the county 9-1-1 authorities for the same purpose.

13. Street Widths

The normal standard for right-of-way width shall be 66 feet wide. Cul-de-sac streets may qualify for a variance in right-of-way width of not less than 50 feet, depending upon the circumstances of topography, housing density, parcel configuration and any other planning and development factor as judged by the Planning Commission and City Council. Any street, other than a collector or arterial street in the R-1 Low Density Residential Zoning District having twelve (12) or fewer platted lots fronting on such street may have a minimum right-of-way width of fifty (50) feet. Streets that are a part of an industrial park shall have a right-of-way width of at least 80 feet. The City may require any other right-of-way to be wider than 66 feet based on known plans or other land use or traffic factors requiring a right-of-way wider than the normal standard. The right-of-way width for the Loop Lane Street shall be at least thirty-five (35) feet.

14. Loop Lane Street

A loop lane within a residential subdivision shall access no more than twelve (12) lots with a total length not to exceed three hundred (300) linear feet measured along the median center from the Collector Street. The loop lane shall have an inside radius of not less than thirty-five (35) feet from the median center. The median shall be either owned by a Homeowner's Association created under the Iowa Horizontal Property Regime Act or shall be dedicated to the City subject to the City's approval thereof. The median under a Homeowner's Association ownership may be subject to a dedicated public easement over, along, or under the median area for utilities.

15. Recreational Trail

A recreation trail shall be designed to comply with the current standards of the Urban Design Standards Manual as published by the Urban Standards and Specifications Committee of the Des Moines Metropolitan area as the manual now and hereafter provides.

F. Plats Adjacent To Streams

For any proposed plat which includes the shoreline of Cedar Creek, Cedar Lake or the Middle River and any land within 400 feet of the ordinary high water shoreline of these water bodies, the following standards for the preservation of open space and protection of environmental resources shall apply:

1. Natural shorelines and stream courses shall not be changed.
2. The natural ground surface shall not be hard surfaced or altered in any other way that would cause erosion or accelerate the runoff of surface water.
3. Healthy trees over four inches in diameter at a point four feet above the ground and within 400 feet of the above shorelines shall not be removed or killed as a part of subdivision development.
4. Flood Prone lands or wetlands shall have a permanent easement placed upon them prohibiting the placement of any structures, fill, drainage, or permanent storage of any material.
5. Any development or land disturbance in excess of 1000 square feet on slopes of seven percent or greater shall install a silt fence or other soil retention device to contain soil washing from the disturbance site.
6. No regulation in this section is intended to prohibit land and water management practices which are a part of a Drainage District Plan approved by the County Soil and Water Board and by the City Council.
7. If proposed land development requirements are such that variances from the terms of this chapter are granted, then reasonable measures shall be implemented to mitigate any adverse effects of such variance, with such mitigation measures determined by the city in cooperation with the land owner.

4.1006 LAND SUITABILITY. No land that falls under the jurisdiction of this ordinance shall be approved as a major or minor subdivision which is determined to be unsuitable for the proposed use by the zoning administrator and the Planning and Zoning Commission because of substantial conflict with the Comprehensive Plan, and specifically, for reasons of flooding, inadequate drainage and wetland conditions, severe erosion potential, excessively steep topography, inadequate drinking water supply, inadequate waste water disposal capabilities, significant potential for contamination of surface waters and drinking water supplies, conflicts with existing or planned parks, airports, agricultural activities, or other planned improvements or features likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

In applying the provisions of this section, the Zoning Administrator and the Planning and Zoning Commission shall base its decision upon a written finding of fact upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability. Thereafter, the Planning and Zoning Commission may affirm, modify or withdraw its determination of unsuitability.

4.1007. IMPROVEMENTS. The Subdivider shall install and construct all improvements required by this Chapter as provided by this Chapter. All required improvements should be installed and constructed in accordance with the specifications and under the supervision of the City and to its satisfaction. The Subdivider shall warrant, by way of a maintenance bond, the design, material and workmanship of such improvements and their installation and/or construction for a period of four (4) years from and after acceptance by the City. The subdivider's engineer shall certify, in writing, to the city that all required improvements meet engineering standards and that all such improvements were constructed and installed in compliance with all standards of this ordinance and any other conditions imposed by the city. The city Zoning Administrator shall conduct an inspection of the final improvements with the subdivider's engineer prior to the engineer's certification to confirm said compliance.

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The City Council shall approve by resolution either the installed improvements after certification by the subdivider's engineer or approve a performance bond at the time of acceptance of the final plat. The Zoning Administrator, with the assistance of an engineer if necessary, shall report to the City Council that all the required improvements have been installed to the City's specifications and requirements. Alternatively, the subdivider shall submit to the City the performance bond in an amount not less than one hundred twenty-five per cent (125%) of the cost of the required improvements not then installed all as determined by the City Engineer. The performance bond may be secured and guaranteed by a corporate surety authorized to issue such bonds by and in the State of Iowa or by an irrevocable bank letter of credit issued by a state or federally chartered bank authorized to issue such letters in the State of Iowa with the bank serving as the surety and the performance bond signed both by the Principal and the Surety.

Upon the recommendation of the Commission, the Council may postpone the installation of any of the improvements if the subdivider will post a performance bond with the City prior to final acceptance of the plat guaranteeing that improvements not completed will be constructed within an approved period of time from final acceptance of the Plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Such postponement shall be based upon good cause and special circumstances. Improvements will be accepted only after their construction has been completed, and no city funds or services will be expended in the subdivision for these deferred improvements until such improvements have been completed and accepted by the City. Any postponed improvements shall be completed within eighteen months of posting the performance bond with the City Clerk.

The subdivider may divide the preliminary plat for an entire tract to be subdivided into numbered preliminary segments. Thereafter, the subdivider shall file final plats for each such segment. The plan for the entire tract encompassed by the preliminary plat shall meet the approval of the Commission in the manner provided by this Chapter prior to acceptance of any final plat. A numbered segment shall include all adjoining right-of-way areas to be dedicated according to the preliminary plat. The numbered final plats will be filed in the order provided by the approved preliminary plat in accordance with this Chapter.

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Changes in said preliminary plat may be made from time to time by the subdivider upon the approval of the Commission. The provisions of this Chapter regarding construction and/or installation of improvements shall apply to each numbered final plat and the subdivider shall comply with said provisions as to each numbered final plat prior to final acceptance thereof.

The Council may waive the requirements of this Chapter for the construction and installation of some or all of the improvements in cases of re-subdivisions where only the size, shape and arrangement of the lots is being changed; provided however, such waiver shall be limited to existing improvements in good repair as determined by the City. Improvements not existing or in poor repair shall meet the City's specifications prior to acceptance.

A. All Improvements

All plans, specifications, installation and construction required by this Chapter shall be subject to the review, approval and inspection by the City. The city shall have the right to stop the construction of any improvement which is not being constructed in accordance with approved specifications and conditions approved by the city. The subdivider shall furnish the City with a construction schedule prior to commencement of any and/or all construction.

B. Drainage

All subdivisions shall include storm drainage plans for the removal of storm waters by way of a storm sewer system and necessary appurtenances. Such plans shall be prepared by the subdivider's Engineer and subject to city review and approval. The following criteria shall be considered minimum standards:

1. Runoff for street and limited area drainage shall be determined by the rational method.
2. Storm frequency chart for determination of rainfall intensity shall be not less than ten years.
3. The system shall be designed with the use of materials, flow velocities and sizes so as to assure long life, low maintenance and self-cleaning of the drainage facilities.

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4. The subdivider's Engineer shall upon the completion of construction certify to the City that the drainage facilities have been constructed and installed in accordance with the plans and specifications which have been designed to comply with the intent of this Chapter.

5. In addition to the storm drainage to handle surface water runoff, storm drains shall be made available to each lot for drainage of sump pump discharge or footing drains. These storm drains shall be for subsurface clean water and shall connect to the storm sewer system, if available.

6. For subdivisions in the R-1 Low Density Residential Zoning District, storm sewer system requirements in subparagraphs 1 through 5 above may be subject to variance by the City and, in such event, replaced by on-site storm water retention and detention measures and erosion and sedimentation control measures as recommended by the Subdivider's Engineer and approved by the City. All such measures will be shown on the preliminary plat and will be made conditions of final plat approval. Natural drainage channels and courses shall not be developed or encroached upon so as to allow for natural drainage. The minimum non-disturbance distances shall be fifty(50) feet from the center line of a drainage swale and one hundred (100) feet back from the ordinary high water line of any flowing stream, except that all subdivision development is prohibited within the 100 year flood limits of any stream. The roadways crossing such draining channels shall have adequate sized culverts as specified by the Subdivider's Engineer. Adequate on-site drainage measures shall be planned and constructed so as to minimize the amount of new drainage waters in excess of previous natural conditions that would flow beyond the boundary of a proposed subdivision.

C. Gas

Gas Mains shall be installed underground by the franchisee gas utility. Natural gas will be required in all subdivisions where available.

D. Paving

Portland Cement Concrete pavement shall be designed by the Subdivider's Engineer in accordance with the standard specifications established by the City. These standards are to comply with the Iowa Statewide Urban Design Standards for Public Improvements (SUDAS), current edition. The minimum roadway paving width shall be twenty-nine (29) feet wide unless the City requires a greater width. The minimum roadway paving width for alleys shall be sixteen (16) feet. The Loop Lane shall have a minimum roadway paving width of twenty (20) feet. The Subdivider's Engineer shall at the completion of construction certify to the City that the pavement has been constructed and installed in accordance with the approved plans and specifications.

Curb and Gutter shall be required on all streets, except as hereafter provided. All Curb and Gutter shall be constructed to the grade approved by the City.

For subdivisions in the City's R-1 Low Density Residential Zoning District, the foregoing paving and curb and gutter requirement may be subject to variance by the City. In the event of such variance, the following requirements shall apply:

A licensed Engineer must design all roadways. The roadway shall be designed to comply with the Iowa Statewide Urban Design and Specifications (SUDAS) for Public Improvements, current edition. The roadway shall have a minimum width of twenty-four (24) feet

Traveled roadway and graded shoulder width of two (2) feet on each side of the traveled roadway. Storm water drainage and the use of curb and gutter in conjunction with the roadway design may be subject to variance as provided above. Upon completion of the roadway, the Engineer shall submit to the City a letter certifying the construction of the roadway in accordance with the approved plans and specifications. The letter shall be submitted prior to the acceptance of the final plat.

E. Sewer

Where a public sanitary sewer is reasonably accessible, the Subdivider shall connect to the sanitary sewer main and provide each lot in the subdivision with connection to this sewer. Sanitary sewer lines shall be designed by the Subdivider's Engineer in accordance with the standard specifications established by the City. Further, where the existing sewer may be reasonably extended through the subdivision at a greater depth and/or with a larger diameter pipe so as to provide for continuous future development, such installation shall be made by the Subdivider and the additional cost may be divided between the City and the Subdivider based upon a negotiated cost share considering the circumstances of each development project.

All house service lines shall be installed to the right-of-way line prior to the paving of the street. Service lines shall have a minimum diameter of four (4) inches and be made available to each lot. The end of these service lines shall be marked on the ground surface by a wooden or metal stake substantial enough to remain in place until the lot is developed.

Any plat that cannot reasonably be served by public sewer may be eligible for the installation of an on-site wastewater disposal system. The Subdivider shall show results of soil percolation tests made by the Engineer preparing the plat and show evidence that the County sanitary permits can be issued for the soils in such subdivision. Such tests shall be in accordance with federal, state and local requirements. All such systems are to comply with all applicable federal, state and local laws and regulations pertaining to such systems. The Engineer shall furnish the City with three (3) certified copies of as-built plans for such systems and certify that the facilities have been installed in accordance with the approved plans and specifications and permit standards. As-built plans shall specifically show service lines locations.

F. ELECTRICITY

Electrical main lines with accessory equipment shall be installed available to each lot in compliance with City standards and procedures.

G. TELEPHONE

Telephone main lines with any accessory equipment shall be installed available to each lot in compliance with the telephone franchisee standards and procedures.

H. CABLE TELEVISION

Cable television lines with any accessory equipment shall be installed available to each lot in compliance with the cable television franchisee standards and procedures.

I. Water Lines

Where a public water main is accessible, the subdivider shall connect to such water main and provide a water connection for each lot, extended to the right-of-way line prior to the paving of the street. The end of this line shall be marked on the ground surface by a wooden or metal post substantial enough to remain in place until the lot is developed. Water lines shall be designed by a Registered Engineer in accordance with the standard specifications established by the City. Water line construction and specifications shall conform to any requirements and plans of the Board of Trustees of the Winterset Municipal Utilities.

The subdivider's Engineer shall furnish the City with three certified copies of as-built plans and certify that the facilities have been installed in accordance with his plans and specifications. As-built plans shall specifically show service line stub locations. Where a proposed water main may reasonable be extended through the subdivision at a larger size so as to provide for future development, such installation shall be made by the developer and the additional cost shall be divided between the subdivider and the city based upon a negotiated cost share considering the circumstances of each development project.

J. Recreation Trail

A recreation trail shall be designed to comply with the current standards of the Urban Design Standards Manual as published by the Urban Standards and Specifications Committee of the Des Moines Metropolitan area as the manual now and hereafter provides. The property upon which a recreational trail is located shall be either owned by a Homeowner's Association created under the Iowa Horizontal Property Regime Act or shall be dedicated to the City subject to the City's approval thereof.

4.1008 MINOR SUBDIVISIONS. Minor subdivisions shall, except as otherwise provided in this section, be exempt from the plat review and approval procedure for preliminary and final plats; but the following procedures and requirements shall apply to minor subdivision plats:

A. Purpose.

The purpose of a minor subdivision procedure is to provide a more expedient process for reviewing small divisions of land having less land development impact and having no requirements for public streets or municipal infrastructure as a part off such land division as compared to major subdivisions requiring the full preliminary and final plat procedures as specified under this ordinance.

B. Procedure.

The subdivider shall consult with the zoning administrator and shall submit three copies of a sketch plat which contains all information required in Section 4.1007, A. and drawn as a certified survey by a licensed engineer or surveyor. Within 15 days of receiving copies of the sketch plat, the Zoning Administrator shall take action to approve, conditionally approve, or refer such plat to the Planning and Zoning Commission, unless time is extended by mutual agreement with the subdivider. The Planning and Zoning commission is the only body having the authority to reject a minor subdivision plat. Where a minor subdivision is conditionally approved or rejected the reasons for rejection or the imposed conditions shall be stated in writing.

4.1009 PRELIMINARY PLAT REQUIREMENTS FOR MAJOR SUBDIVISIONS. The preliminary plat of a subdivision is not intended to serve as a record plat and shall be submitted for review separately and prior to submission of the final plat. Preliminary platting procedure is as follows:

A. Pre-application Coordination

Prior to filing a preliminary plat the subdivider or his agent shall consult with the Zoning Administrator for the purpose of receiving general information about any city plans, zoning requirements or other factors so as to avoid unnecessary difficulty and time delays for the subdivider and facilitate the plat review. No formal plat or filing fee is required for this step. A sketch map, drawn to a scale acceptable to the Zoning Administrator shall be provided to the Zoning Administrator, and which sketch which shall include, at a minimum, the following information: legal description and boundaries of the property proposed for subdividing, the ownership of all adjacent lands, the approximate size of the planned parcels, north arrow, all existing structures, principal natural land features including drainage ways, existing roads within or giving access to the property, location of flood prone lands and any other information relevant to the development of the property. At this review, or within 15 days thereafter, the Zoning Administrator shall inform the subdivider of any additional information needed, recommended changes or corrections to be made before a preliminary plat is prepared. The Zoning Administrator shall provide the results of this pre-application coordination to the Plan Commission at the time the preliminary plat is reviewed by the Commission.

B. NUMBER OF COPIES AND SCALE OF THE PRELIMINARY PLAT

Three copies of the preliminary plat shall be submitted to the city's plat review agent and prepared according to the requirements of this Section for review. The scale of the map shall be 1" = 50' on small subdivisions and 1" = 100' on large subdivisions unless otherwise approved by the Commission.

C. CONTENTS OF PRELIMINARY PLAT

1. Areas to be dedicated for public use such as parks, playgrounds, streets, drainage easements and utility easements.
2. Boundaries of the proposed subdivision shall be labeled and indicated by a heavy line.
3. Proposed lot lines.
4. Buffer easement and method where required.
5. Contour lines at intervals of not more than two (2) feet to City datum, except where the slope of the land exceeds twenty-five (25) per cent in which event five (5) foot intervals may be used.
6. Location and size of all proposed utilities and required utility easements. For water lines, the location of all laterals, hydrants and gate valves shall be shown. For sanitary sewers, all manholes shall be shown.
7. Existing buildings, railroads, underground utilities, other rights-of-way
8. Location and name(s) of adjoining subdivision(s).
9. Location, names and widths of all existing and proposed roads, alleys, streets and highways adjoining the area being subdivided.
10. Lot area (approximate) of all non-rectangular lots and the area of smallest rectangular lot.
11. Lot numbers
12. Name and address of engineer and surveyor.
13. Name and address of land owner(s) and/or developer.
14. Name of subdivision, date, compass point, scale and legal description and acreage of the property being platted.

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15. The boundaries and numbers of all addressing blocks within the proposed subdivision according to the city's addressing plan.

D. ACCOMPANYING MATERIAL

1. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the Engineer preparing the plat as required by this Chapter and certification from the County Sanitarian as to what parts of the plat would qualify for a septic system permit.
2. Restrictions proposed, if any, to be included in the owner's dedication of the plat. Such restrictions are not subject to approval by the City, however, it's the applicant's responsibility to assure that no such restriction shall be in violation of any federal, state or city laws.
3. Written statement by the appropriate officials of the availability to the proposed subdivision of all utilities required by this Chapter.

4.1010 FINAL PLAT REQUIREMENTS OF MAJOR SUBDIVISIONS

A. NUMBER OF COPIES AND SCALE

After the preliminary plat is approved, the subdivider shall submit six copies of the final plat for review by the Commission. The final plat may include only part of the preliminary plat. The scale of the plat, if different from the preliminary plat, shall be approved by the Zoning Administrator.

B. CONTENTS OF FINAL PLAT

The following information shall be shown on the plat:

1. Block lines shall be designated by heavy solid lines.
2. Boundary lines shall be designated by a heavy line.
  - a. Boundary dimensions from angle point to angle point shall be shown for all sides of the closed traverse.
  - b. Bearings, based on an assumed meridian approximating north, of all boundary lines or internal angles of all angles points on the boundary shall be shown.

- 3 Street names, locations, lot designations and right-of-way width for all streets within or abutting the plat shall be shown. Streets that are a continuation of present streets should bear the same name. The city Council shall be the final authority for approving street names consistent with any 9-1-1 street naming standards.
4. Certification by a registered Land Surveyor in accordance with the Iowa law.
5. Easements for public utilities and drainage facilities shall be designated by fine line of medium length dashes, and appropriately labeled with reserved width and type of easement.
6. Fractional lines and corners of the Government Township and section surveys shall be appropriately labeled and dimensioned as applicable to the plat. All plats shall be tied to a known section or fractional corners or adjoining subdivisions by distances and bearing or angles.
7. Legal description of the platted area shall be included on the plat.
8. Lot lines shall be designated by medium fine to solid lines.
9. Lots shall be numbered consecutively with all sides dimensioned. The bearings or corner angles of all lot lines, which are not parallel to the block lines, shall be shown and lines intersecting a curved line shall be labeled as radial or not radial as applicable. Dimensions of lot lines which are curved shall include appropriate curve data.
10. Permanent reference monuments shall be labeled (P.R.M.) and located.
11. Scale shall be indicated graphically as the scale in feet along with the compass point.

12. Surveyor's notes shall include the following as appropriate or applicable to the particular plat.

- a. All bearings are based on an assumed meridian for computation purposes.
- b. A legend indicating the meaning of various lines and symbols in the plat.
- c. Any other notes deemed necessary for the particular plat.

C. ACCOMPANYING MATERIAL

The final plat upon filing with the Zoning Administrator shall be accompanied by the following material:

1. All documents required by Iowa Code Section 354 as that section now or hereafter requires, except for the resolution of the City Council approving the final plat.

2. Any protective covenants or restrictions to be imposed upon the plat. Such covenants or restrictions are not subject to approval by the City; however, it is the responsibility of the subdivider to assure that no such covenant or restriction violates any federal, state or local laws.

3. Plans and profiles of all street, alleys and sidewalks (whether being installed or not) at an appropriate scale approved by the Zoning Administrator. Profiles shall show location, size and grade of all conduits, sewers, pipelines, sidewalks, streets, etc. being installed

4. The following documents:

- a. A certificate by the subdivider's Engineer that all improvements required by this Chapter have either been installed in accordance with the approved plans and specifications and a description of any improvements which fail to meet the approved plans and specifications.

- b. Maintenance bond for all installed improvements warranting the materials and construction methods for a period of two (2) years from the date of acceptance by the City of the improvements (four years for the street paving); or,

- c. Performance bond, if necessary, for any improvements not installed at the time of filing of the final plat.
- d. A digital video of the Storm and Sanitary sewer Main systems showing the inside area within the Main line.
- e. The computer data for the installed utility systems compatible with City software to be integrated into the City Geographic Information System (GIS).

**D. RECORDING PLAT**

After approval of the final plat by the City Council, the final plat and the pertinent accompanying material shall be recorded at the subdivider's cost in the manner required by Iowa Code Chapter 354, including rules of the County Recorder's Office

4.1011 VARIANCES. Where in the case of a specific proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would warrant consideration for relief from such requirements, a variance may be considered under those conditions provided below:

**A. Hardship.**

Where the Plan Commission and city Council find that extraordinary hardship or practical difficulties caused by strict compliance with these regulations due to topography and parcel size and shape which thereby cause reduced development potential, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations or the objectives of the Comprehensive Plan; that it not be in conflict with the Zoning Ordinance; and further provided the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1. The granting of the variation will not be detrimental to the public health, safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- 2. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable, generally, to other property.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, of the strict letter of the regulations were carried out.

4. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

5. Except as provided in sub-paragraph B below, neither the code requirements for improvements to be dedicated to the public shall not be waived nor the construction standards for the physical improvements diminished.

B. Plats Located in the R-1 Low Density Residential Zoning District. Residential subdivision plats with this District shall be considered for variances from the improvement standards and requirements of this Chapter due to the lesser need for all such improvements in a low intensity development and the intentions of this zoning district to preserve as much of the natural landscape as possible. Variances shall not be considered for the improvement standards referenced in Section 4.1007 of this Chapter for subdivisions in other zoning districts. The Subdivider shall present to the Commission a written description and justification of each variance requested. Final variances shall be determined by negotiations between the Subdivider and the Commission and City Council. Any and all variances granted under this subparagraph shall remain consistent with providing for the health, safety and general welfare of the Subdivision occupants and the City in general and shall be consistent with the Comprehensive Land Use Plan. Any roadway for which a variance is granted from the standards of this Chapter may be accepted as a public street by the City Council, provided, however, that any such roadway shall have as a minimum a twenty-four (24) foot wide traveled roadway, a two (2) foot wide graded shoulder on each side of the roadway, and a fifty (50) foot road lot or easement for each such roadway variance.

B. Conditions.

In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.

C. Procedure For Variance.

A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. Such petition shall be signed by the subdivider acknowledging the accuracy of all information in the petition. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition submitted by any petitioner with a variance request and the record of the granting of any such request shall be filed for record by the subdivider with the recording of the final Plat.

4.1012 FEES. Before a Preliminary Plat may be considered by the Commission, the Subdivider shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

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4.1013 ENFORCEMENT.

A. No plat of any subdivision or plat of survey shall be recorded in the County Recorder's office or have any validity until the division and the improvements, if any, have been approved in conformance with both this Chapter and Iowa law.

B. The City Council shall not permit any city funds to be expended for repairs or maintenance on any improvements in any area that has been subdivided unless such subdivision has been approved and the improvements accepted in accordance with this Chapter.

C. No building permit shall be issued for any lot in a subdivision which has received final approval under this Chapter, wherein the improvements as provided in Section 4.1006 of this Chapter have neither been installed nor a performance bond for the improvements posted with the City as provided in this Chapter. Unless in an approved Planned Unit Development Zoning District, the City shall not allow more than one (1) principal structure on any one subdivided residential lot unless the division of that lot had been established by replat approved in conformance with this Chapter and Iowa law.

D. No more than one building permit for each separate tract existing as of January 1, 1973 shall be issued unless said tract has been platted, except that this provision shall not limit the number of building permits that may be issued for accessory buildings or additions to building already existing on said tract. Separate tract means an aliquot part of a section, a lot within an official plat, or a government lot under one ownership as of January 1, 1973.

E. This Code Chapter shall apply to and be enforceable upon any division of a tract or parcel of land within the jurisdiction of the City as defined by Section 4.1002 of this Code for which an Official Plat is required by the laws of the State of Iowa or this Code Chapter.

F. Subdivision lots which have been further divided by plat of survey shall not have any Building Permits issued for improvements to be placed thereon until the division has been established by replat approved in conformance with both this Chapter and Iowa law.

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4.1014 COMMISSION REGULATIONS. The Commission may issue rules and regulations implementing the provisions of this Chapter.

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4.1101	COUNCIL MAY ORDER
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4.1101      COUNCIL MAY ORDER.      The City Council may, by resolution, order the construction or reconstruction of sidewalks along any of the streets, avenues or other public ways of the city.

4.1102      ABSENCE OF SIDEWALKS.      Sidewalks may be ordered constructed whenever either side of the street, or any portion thereof, shall be without a sidewalk.

4.1103      IMPROPERLY BUILT SIDEWALKS.      Sidewalks may be ordered constructed to take the place of any sidewalk which at the time of being built does not conform to the requirements of the ordinances and policies of the City as to material or to other specifications and the manner of construction, or which is not constructed at the established grade.

4.1104      WORN-OUT SIDEWALKS.      Sidewalks may be ordered constructed as provided by this Chapter to take the place of any sidewalk, whenever and however built, which has become worn out, dilapidated, or dangerous, and which has fallen into such condition as that ordinary repairs in the judgment of the City are insufficient to place the sidewalk in a good, safe condition.

4.1105 GENERAL PROCEDURES. Whenever the City Council desires the construction or reconstruction of any sidewalk, the City Council shall first adopt a resolution as provided by Section 4.1101 of this Chapter. The resolution so adopted shall include the following information:

- a. Name and last known address of all property owners abutting to the sidewalk proposed for construction or reconstruction;
- b. Location of the sidewalk and list of specifications of materials to be used and construction methods to be followed;
- c. statement of estimated unit cost;
- d. a statement that if the sidewalk is not constructed or reconstructed by the owner of the property abutting thereon within the time fixed in this Chapter, then the sidewalk shall be constructed or reconstructed by the City and the costs thereof shall be assessed against the abutting property as provided by this Chapter; and,
- e. specify the rate of interest on any unpaid assessments, which rate shall not exceed the rate permitted by Chapter 74A of the Code of Iowa.

4.1106. NOTICE TO THE PROPERTY OWNERS. When a sidewalk is ordered to be constructed or reconstructed as provided in this Chapter, a written notice shall be served on the owner of the abutting property. The notice shall provide the following information:

- a. All material parts of the resolution of the Council as set out in Section 4.1105;
- b. Shall inform the person notified that unless the sidewalk is built or rebuilt by them within the time period specified in the Council resolution ordering the construction or reconstruction, then the sidewalk will be built or rebuilt by the City, and the costs thereof assessed against the abutting property; and,
- c. Shall inform the person notified of their right to appeal the proposed action to the City Council as hereafter provided.

4.1107. METHOD OF SERVICE. All notices required to be served by this Chapter shall be deemed served upon the person or persons named on the Notice upon mailing by certified mail through the United States Postal Service to the person's last known address.

4.1108. OWNER OF THE PROPERTY. The owner of the property shall be deemed to be the person in whose name the real estate is taxed according to the property tax records maintained by the County Treasurer.

4.1109 APPEAL RIGHTS. The owner of the property shall have the right to appeal the proposed action of the City to the City Council within fifteen (15) days from the date of service of the notice as provided by Section 4.1107. The date of depositing the Notice in a United States Postal Service mail receptacle shall be deemed the date of service. The appeal shall be in writing signed by the owner of the property and shall be filed with the office of the City Administrator. The City Council shall set the date of hearing on the appeal, shall cause the appellant to be notified of the hearing date at least three (3) days in advance and shall act upon the appeal following the hearing thereon. The City Council by resolution may prescribe rules for the appeal hearing. The action of the City Council on the appeal shall be final for all purposes under the Chapter unless timely appealed as hereafter provided. If the Council action on the appeal orders the sidewalk construction, then the Council shall also further specify the time period in which the property owner shall be allowed to construct the sidewalk.

4.1110. JUDICIAL REVIEW. The owner of the property within thirty (30) days of the City Council action on the appeal may appeal the decision of the Iowa District Court as provided by Section 414.15 of the Code of Iowa.

4.1111. CONSTRUCTION BY THE CITY. In case the owner of the property so ordered to construct or reconstruct the proposed sidewalk shall fail to timely install the sidewalk at their expense, then the sidewalk shall be constructed or reconstructed by the City or their agent or contractor.

4.1112. STATEMENT OF COSTS. After the construction or reconstruction of the sidewalk by the City is complete, the City Administrator shall cause to be prepared a statement of the number of square feet of sidewalk built along each parcel of property abutting on said sidewalk, and the total costs thereof. The statement of costs shall further provide that the total costs, unless paid within thirty (30) days, will be assessed against the abutting property for collection in the same manner as a property tax; the unpaid assessment shall be payable in five (5) annual installments; and, the unpaid assessment shall bear interest in the manner and at the rate not to exceed the rate permitted by Chapter 74A of the Code of Iowa. The City Administrator shall cause this statement to be mailed to the owner of the property in the manner provided by Section 4.1107.

4.1113. TIME FOR OWNER TO PAY COSTS. The owner of the property shall be allowed to pay the costs of said sidewalk in the amount provided in the statement of costs within thirty (30) days of the date of mailing said statement.

4.1114. ASSESSMENT OF COSTS. In the event the owner of the property does not timely pay the costs of said sidewalk according to the statement of costs, then the City Administrator shall cause any unpaid costs thereof to be assessed against the abutting property for collection in the same manner as a property tax. The unpaid assessment shall be payable in five (5) annual installments with interest on the unpaid installments at an annual rate not to exceed the rate authorized by Chapter 74A of the Code of Iowa.

4.1115. GRADE ESTABLISHED BY THE CITY. In all cases the City shall first establish the proper grade for the sidewalk. The owner of the abutting property at their cost shall be responsible for the cost of establishing the grade and for bringing the bed of the sidewalk to the grade established by the City. In all cases, the sidewalk shall be built to the established sidewalk grade.

4.1116. LOCATION OF WALKS. All sidewalks shall be constructed or reconstructed in the public right of way as nearly as practicable on or near the lot line. Sidewalks so constructed or reconstructed shall be of such width as specified in the resolution ordering the sidewalk and shall run in a straight line as nearly as may be practicable, and shall join on and be a continuation of the sidewalks already built.

4.1117. REPAIR. All property owners shall keep the sidewalks abutting their property in good repair and safe for public use.

4.1118. VOLUNTARY CONSTRUCTION BY THE OWNER. Any property owner who desires to voluntarily construct sidewalks in front of their property shall first apply to the City Administrator for a building permit on forms supplied by the City. Upon receipt of a building permit application for sidewalk, the City shall set construction standards and specifications for the sidewalk and shall cause the grade to be established for the sidewalk, if necessary. Upon issuance of the building permit, the owner may then commence construction or reconstruction of the sidewalk. The sidewalk shall be built in accordance with the specifications provided by the City.

4.1119. VOLUNTARY ASSESSMENT BY THE OWNER. Any property owner who desires to voluntarily have sidewalks constructed or reconstructed in front of their property and have the costs thereof assessed against their abutting property for collection in the same manner as a property tax may make application to the City Administrator on forms supplied by the City. Such application shall request the City to cause said sidewalk to be installed with the costs thereof assessed against the abutting property in the same manner as a property tax. The application shall waive the property owner's right to a statement of costs and an opportunity to pay such costs and shall acknowledge the assessment procedure established by this Chapter. Upon completion of the construction or reconstruction of the sidewalk by the City, the City Administrator shall cause the costs thereof to be assessed against the property for collection in the same manner as a property tax in accordance with Section 4.1114.

TITLE IV

Chapter 11

SIDEWALKS

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PREAMBLE

4.12001. SHORT TITLE. This Chapter shall be known as the Zoning Ordinance of the City of Winterset, Iowa, and shall also be known as Title IV, Chapter 12 of the Winterset Municipal Code

4.12002. INTERPRETATION OF STANDARDS. This ordinance is intended to provide for the health, safety, general welfare, and efficiency in the provision of municipal services and the overall quality of life for the City of Winterset, Iowa. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Where this Chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or Chapters, the provisions of this Chapter shall control.

4.12003. DEFINITIONS. For the purpose of this Chapter, certain terms or words used herein shall be interpreted as follows:

Person. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes plural, and the plural number includes the singular.

The word shall is mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel, and all other words or phrases used to denote an individual building site which complies with the minimum provisions of this Chapter.

Accessory Use or Structure:

A use or structure subordinate to the principal use of a building or other improvement upon the lot and serving a purpose customarily incidental to the use of the principal building or use of the land. A storage or freight vessel capable of being used for commercial hauling shall not become an accessory structure upon any lot.

Agriculture:

The use of land for farming, including animal husbandry, dairying, field cropping, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, horse raising and stables, kennels and the necessary accessory uses for sheltering, feed storage, pacing, showing, training, treating; however, the operation of any accessory uses shall be subordinate to that of the normal agriculture activities. The term Agriculture in this ordinance does not include commercial feedlots and confinement feeding of livestock or poultry.

Alley

A public way other than a street, twenty-six feet or less in width, affording secondary means of access to abutting property. An alley shall not be considered a public thoroughfare.

Automated bank telling services:

Services provided by an electronic banking outlet (ATM) which outlet allows customers to complete banking transactions without the assistance of a bank representative or teller.

Automated fuel dispensing services:

Services provided by electronic motor fuel dispensing equipment which equipment allows customers to dispense fuel into the fuel tank of motor vehicles and make payment for the fuel without the assistance of a gas station or convenience store attendant.

Automobile Service Station:

A retail place of business having pumps and/or storage tanks from which liquid fuel and/or lubricants are dispensed directly into the motor vehicle. Sales of auto accessories, washing, polishing, inspections and cleaning and similar activities incidental to the sale of fuel, lubricants and accessories are permitted; and, the performance of minor repairs not involving replacing or repairing major auto components such as engines or transmissions are permitted. However, steam cleaning, major auto repairs or auto bodywork are not allowed.

Automobile Wrecking:

(See "Junk Yard")

Awning:

Roof like cover entirely supported by and extending from a building for the purpose of protecting openings therein from the elements.

Basement:

A story having more than one-half of its heights below grade.

Bed and breakfast home: A private residence which provides lodging and meals for guests, in which no more than five guest families or individual patrons are lodged at the same time, and which, while it may advertise and accept reservations, does not present itself to the public as a restaurant, hotel, motel, or resort, and does not require reservations, and serves food only to overnight customers.

Block:

Property abutting on one side of a street and property lying between the two nearest intersecting or intercepting streets, railroad right-of-way, waterway, open space, farm land, campus, park or other definite boundary.

Building Height:

The vertical distance from the average finished ground grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between caves and ridge for gable, hip, and gambrel roofs.

Centerline, Public Thoroughfare:

A line running parallel with the thoroughfare right-of-way which is half the distance between the extreme edges of the official right-of-way width.

Certified Survey:

A sketch, plat, map or other exhibit bearing a written statement of its accuracy or conformity to specified standards which is signed by a Registered Land Surveyor as defined by the Code of Iowa.

Commission:

The Planning and Zoning Commission.

Convenience Store:

A retail place of business whose primary purpose is the sale to the general public of the following consumer goods: edible foodstuff, beverages, petroleum products for immediate use in motor vehicles, and other similar retail consumer goods generally associated with this type of consumer servicing enterprise.

Dwelling:

Any building, or portion thereof, which is designed or used exclusively for residential purposes including modular homes and manufactured homes as defined in this section, but not including a tent, cabin, trailer, vehicle, motor home or travel-trailer.

Dwelling Unit:

One or more rooms arranged, designed, connected together and resided in by only one family. Such unit shall have its own cooking, sleeping and bathroom facilities. Such unit shall be physically separate from any other dwelling units in the same building.

Dwelling, One-Family:

A building designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

Dwelling, Multiple:

A building designed for and used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, Earth Sheltered:

A residential building constructed underground, or with more than one-half of its height (measured from floor to ceiling) below the adjoining exterior grade on one or more walls, having one or more sides completely exposed and having its main floor level at or above the approximate grade between the building and property line on one or more sides and generally not more than one-half story below the grade of the street from which access is obtained unless the natural slope would normally accommodate a full walk-out story.

Duplex:

A building designed for and used for occupancy by two families living independently of each other and containing two dwelling units.

Family:

A family is:

- A. An individual or two or more persons related by blood, marriage or adoption or foster children living together as a single housekeeping unit in a dwelling unit, or
- B. A group of not more than five persons who need not be related, living together as a single housekeeping unit in a dwelling unit.

Farm:

An area comprising ten acres or more that is used for agriculture.

Garage, public:

A structure in which major mechanical repair or rebuilding of motor powered vehicles is performed and in which the storage, hiring, selling, leasing are accessory uses.

Garage, Private:

An accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles, trailers boats or other personal property owned by the occupants or by the owners of the main building.

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Garage, private, residential: An accessory use structure located on and serving a residential property which shall be designed and used for the sheltering of no more than three motor vehicles and other personal property used by the occupants of the associated residential property, and no more than one of these vehicles may be a commercial vehicle over two tons capacity.

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Grade:

The average level of the finished surface of the ground adjacent to the exterior walls of the structure. However, when any wall approximately parallels and is not more than five feet from a street line, then the average elevation of the street along that wall shall be grade.

Home Occupation:

Any occupation or profession conducted solely by resident occupants in their place of residence, involving primarily service and not the sale of commodities upon the premises; provided further, that not more than one quarter the area of not more than one floor level of the building may be used in pursuit of the occupation and any sign identifying the occupation shall not exceed two square feet in total area and shall be attached to the outer wall of the residence; one person other than the occupant of the building may be employed in the home occupation. Home occupations may sell incidental products held in stock to customers but there shall be no advertising of such incidental products. Home occupations shall have no exterior storage of materials or products and shall not emit odors, smoke, glare, noise, and lighting or create parking problems which would be a nuisance in the neighborhood. Home occupations are subject to periodic zoning compliance inspections by the City Zoning Administrator. In Home Day Care Provider is a separate zoning classification and is not considered a Home Occupation.

In Home Day Care Provider:

Childcare provided in the home of the resident occupant for all day or a portion of the day for compensation, excluding emergency situations. The provider's children who are age thirteen (13) or younger shall be included in determining the number of children under childcare.

Loading Space:

Any off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot:

A parcel of land or two or more contiguous parcels to be used as a unit under the provisions of this Chapter, and having its principal frontage on a dedicated street or an approved private street and of at least sufficient size to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required. A lot may consist of any one of the following:

A. A combination of complete lots of record, of complete lots of record and portions of lots of records, or of portions of lots of record.

B. A parcel of land described by metes and bounds: provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this Chapter.

C. A single lot of record.

Lot Lines:

A. Front: The front property line of a lot shall be determined as follows:

Corner Lot. The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as platted, subdivided, or laid out. Where the lines are equal, the front line shall be that line which is obviously the front by reasons of the prevailing custom of the other buildings in the block. If such front is not evident, then either may be considered the front of the lot, but not both.

Interior Lot. The front property line of an interior lot shall be the line bounding the street frontage.

Through Lot. The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block.

Where such front property line is not obviously evident, the Board of Adjustment shall determine the front property line. Such a lot over 200 feet deep shall be considered for the purpose of this definition, as two lots each with its own frontage.

B. Rear: The rear property line of a lot is that lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten feet long lying within the lot and parallel to the front property line. If the front property line is a curved line, then the property line shall be assumed to be a line not less than ten feet long lying within the lot and parallel to a line tangent to the front property line at its midpoint.

C. Side: The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

Lot Measurements:

A. Area. The gross area exclusive of dedicated or easement streets or other recorded rights-of-way such as railroads. Except as noted in Article XIV.

B. Depth. The mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints of the front and rear lot lines.

C. Width. The horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front setback. Where the lot width is decreasing from front to rear, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the required minimum rear setback.

Lot Types:

A. Corner Lot. A lot located at the intersection of two or more streets and having the street right-of-way abut the front and one or more sidelines of the lot.

B. Double Frontage Lot. A lot located at the intersection of two or more streets and having the street right-of-way abut the front and one or more sidelines of the lot.

C. Interior Lot. A lot other than a corner lot having frontage on but one street or public thoroughfare.

D. Key Lot. An interior lot, one side of which is contiguous to the rear line of a corner lot.

Major Recreational Equipment:

Travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats or boat trailers, personal water craft, hover craft, horse trailers, snow mobiles or snow mobile trailers and similar equipment.

Manufactured Home:

A factory-built single family structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. For the purposes of these regulations, manufactured home shall be considered the same as any other site built single-family dwelling.

Modular Home:

Factory-built housing as provided by Iowa Code Section 135.1(3), which has been certified as meeting the State Building Code Applicable to modular housing. Once certified by the State of Iowa, modular homes shall be subject to the same standards as site built homes.

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Mobile Home:

Any vehicle as provided by Iowa Code Section 135.1(1) without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is a factory-built housing built on a chassis. A mobile home shall not be construed to be a travel trailer or any other form of recreation vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other pertinence of mobility are removed and regardless of the nature of the foundation provided. However, certain mobile homes may be classified as "manufactured homes." Nothing in this Chapter shall be construed as permitting a mobile home in other than an approved mobile home park, unless such mobile home is classified as a manufactured home. A mobile home shall be a dwelling unit for density and parking requirements purposes, but shall not be considered a single or multiple dwelling, apartment, efficiency apartment, rooming unit or guest room. A mobile home shall be larger than eight (8) feet in width and thirty-two (32) feet in length. The mobile home shall contain sleeping accommodations, a flush toilet, a tub, or shower, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

Mobile Home Park:

Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied mobile homes and travel trailers subject to Article X and used solely for living and/or sleeping purposes. Travel trailers shall not occupy more than fifteen percent of the spaces of the total mobile home park.

Motel or Motor Hotel:

A building or group of two or more buildings designed to provide sleeping accommodations for transient or overnight guests with garage attached or parking facilities conveniently located to each such unit.

Non-Conforming Use:

Any structure or land lawfully used at the time of the effective date of this Ordinance, which does not conform, with the use regulations of the District in which it is located.

Parking Space, Automobile:

An area other than a street or alley reserved for the parking of an automobile--such space having a dimension not less than ten feet by twenty feet, plus such additional area as is necessary to afford adequate ingress-egress. Where four or more automobile parking spaces are to be grouped as a common facility meeting a requirement of this Chapter, the individual car spaces, plus the area necessary for driveways, shall total not less than 315 square feet per car space.

Premises:

A lot or tract of land and any structure located thereon.

Public Thoroughfare:

(See "Street".)

Seasonal Room:

An enclosed porch area or room attached to the dwelling unit which has an exterior door separating the area or room from the dwelling unit. A seasonal room which is heated and/or cooled shall be constructed in compliance with Title IV of the City Code.

Setback:

The building restriction line nearest the front of and across a lot establishing the minimum distance to be provided between the line of a building located on said Lot and the nearest street right-of-way line or nearest lot line if there is no street.

Spas:

A bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use and not designed to be drained, cleaned, and refilled for each individual use. Spas shall have a means of agitation to include, but not be limited to, hydro jet circulation; hot water, cold water, mineral baths, air inductions systems; or, any combination thereof.

Street:

A public thoroughfare which affords the principal means of access to the abutting property. An alley is not a street. (See "Public Thoroughfare.")

Structural Alterations:

Any replacement or change beyond ordinary repairs and maintenance in the shape or size of any portion of a building or of the supporting members of a building or structure such as walls, columns, beams, arches, girders, floor joists, or roof trusses.

Structure:

Anything constructed or erected either portable or with a rigid or fixed location on the ground or attached to something having a permanent location on the ground, including buildings, walls, fences, signs, light standards, towers, tanks and billboards, monuments, stadiums and swimming pools.

Subdivision:

A division of a lot, tract or parcel of land into three or more lots, plats, sites for the purpose, whether immediate or future, of sale, lease, conveyance or transfer with the appurtenant streets, alleys, and easements, dedicated or intended to be dedicated to public use or for the use of purchasers or owners within the tract subdivided. If a new street is involved, any division of a parcel of land or the division into two or more parts of any residential lot shall also be deemed a subdivision.

SWIMMING POOL:

An outdoor artificial or semi-artificial basin of water, of either temporary or permanent construction, whether above or below ground and whether movable or immovable, capable of containing water of a depth of eighteen (18) inches or more. Swimming pools exclude man-made lakes or ponds created through the collection of storm water or drainage runoff, and hot tubs equipped with a latching cover. Swimming pools include constructed, or reconstructed, pools with an excavated exterior area wherein the swimming pool is built and prefabricated pools which are purchased and subsequently assembled and erected, regardless of whether done by a professional or other individual.

Travel Trailer:

Any vehicular, portable structure built on a chassis, with or without motive power, designed as a temporary dwelling not exceeding eight feet in width, exclusive of slide-out components, and not exceeding forty-two feet in length exclusive of separate towing unit. The term "travel trailer" shall include pick-up coach, motor home, camp trailer, or other similar mobile and temporary dwellings commonly used for travel, recreation or vacation quarters.

Travel Trailer Park:

Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied mobile homes, travel trailers, pick-up campers, converted buses, tent trailers, tents or similar devices served by licensed sanitary facilities, and used for temporary recreational and sleeping purposes associated with recreational, vacation and tourism purposes.

Variance:

A modification of the terms of the zoning ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship and practical difficulty. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Yard:

An open space on a lot extending from the lot line to the required set back line and unoccupied and unobstructed from thirty inches above the ground upward, except for landscaping, balconies, steps and awnings or as otherwise provided in this Chapter.

Yard, Front:

The yard area extending across the front of a lot between the public right of way and the required front yard setback line. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front the building on the street parallel to the lot line having the greater dimension.

Yard, Rear:

The yard area extending across the rear of a lot between the lot line and the required rear lot set back line.

Yard, Side:

The yard area lying between a front and rear yard setback lines and extending from the side lot line to the required side yard setback line.

Zone:

Any one of the classes of districts established by this Chapter.

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4.12004 OFFICIAL ZONING MAP. The City is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by this reference and declared to be a part of this Chapter.

The Official Zoning 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 Zoning Map referred to in Section 4.12004 of the Winterset Municipal Code". This map shall be kept on file at City Hall and available for inspection by the public. The official zoning map shall have inscribed on its face the boundaries of all rezoning approved by the City Council. The official zoning map may be updated at any time by the Planning Commission and City Administrator with such map re-certified as provided above.

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4.12005 DISTRICTS. For the purpose of this Chapter, the City is hereby divided into land use districts as follows:

R - 1 Low Density Residential District  
R - 2 Single and Two Family Residential District  
R - 3 Multi-Family Residential District  
TD- 1 Residential-Commercial Transition District  
TD- 2 Downtown Commercial Transition District  
C - Commercial District  
DC- Downtown Commercial District  
I - Industrial District  
A - Agricultural District  
CO- Conservation - Open Space District

4.12006. BOUNDARIES. Where uncertainty exists as to the boundaries of any of these districts, the district boundaries are either lot lines or the centerlines of street and alleys, quarter-quarter section lines or lines denoted by specific measurements from known and fixed points. Where uncertainties or disputes arise, the Board of Adjustment shall investigate and determine zoning boundary locations.

#### GENERAL REGULATIONS

4.12007. RECREATIONAL EQUIPMENT. No major recreational equipment shall be parked or stored in any front yard in a residential district for more than twenty-four hours except on the driveway for the residence. Major recreational equipment shall not be used for living, sleeping, or housekeeping purposes except in a mobile home park.

4.12008. CONFORMANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered nor shall any building or land be used which does not comply with all of the district regulations established by this Chapter for the district in which the building or land is located.

4.12009. CONTINUING EXISTING USES. Except as hereafter provided, the lawful use of a lot or parcel of land at the time the lot or parcel first became subject to zoning regulation by the City may be continued even though such use may not conform with the regulations of this Chapter for the district in which it is located. This provision shall not be construed to authorize a land use which under prior zoning regulations was invalid.

4.12010. NONCONFORMANCE. Within the districts established by this Chapter or by amendments which may later be adopted, there exist lots, structures, buildings and uses which were lawful before this Chapter was effective or amended, but which would be prohibited regulated or restricted under the provisions of this Chapter or future amendment, the intent of this Chapter is to permit these nonconformities to continue until they are removed or cease to be so used, but not to encourage their survival. It is further the intent of this Chapter 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.

4.12011. NONCONFORMING LOTS OF RECORD. A single family dwelling and customary accessory buildings, notwithstanding limitations imposed by other provisions of this Chapter, may be erected in any district in which single family dwellings are permitted on any single lot of record at the date the lot or parcel first became subject to city zoning regulations. Such lot must be in separate ownership and not of continuous frontage with other lots in 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.

4.12012. NONCONFORMING USES IN ANY DISTRICT. No building or land devoted to a use not permitted by this Chapter in the zoning district in which such building or land is located shall be enlarged, extended constructed, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such buildings, structure or premises is located, except as follows:

A. SUBSTITUTION. If no structural alterations are made, a nonconforming use of building or structure may be changed to another nonconforming use of the same or of a more restrictive zoning use classification. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

B. DISCONTINUANCE. In the event that a nonconforming use classification of any building or premises is discontinued or abandoned or is a nuisance as defined by this Code, the use of premises shall conform thereafter to the uses permitted in the district in which it is located. The use of land upon which no improvement or building is erected or constructed, which becomes nonconforming by reasons of a subsequent change in this Chapter, shall be discontinued within one year from the effective date of the zoning change.

C. REPAIR AND MAINTENANCE OF NONCONFORMING STRUCTURES. Any nonconforming building or structure requiring repairs or maintenance as a result of ordinary wear and tear, depreciation, or for any other reason which costs more than fifty percent of its then existing value, as determined by the building inspector, shall not be repaired, restored or reconstructed and the nonconforming use shall then cease; but, if the cost of such repairs or maintenance is less than fifty percent of the then existing value of the structure, it may be restored, reconstructed and used as before provided that such repairs can be completed within six months.

4.12013. STREET FRONTAGE REQUIRED.

A. Except as permitted in Section 4.12010, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts at least forty feet on at least one street or right-of-way, or unless it has an exclusive unobstructed private easement of access or right-of-way at least twenty feet wide to a street; and, there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least fifty feet wide shall be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

- B. The number of ingress/egress access points to public streets and/or alleys from off-street parking areas are subject to the City approval and shall be located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety and, as possible, not impair the movement of vehicular traffic on public streets and alleys. The permitted number of ingress/egress driveway approaches to public streets/alleys for an off-street parking lot shall be dependent upon the existing and projected future average daily traffic (ADT) for the public street and, where possible, public street accesses should be located in alignment with driveway approaches gaining access to the same public street and/or alley from property on the opposite side of the street and/or alley.
- C. Except for single-family detached dwellings, and unless recommended by the Zoning Administrator, access drives onto public streets/alleys should have a minimum separation of one hundred feet (100') apart measured center line to center line; and, on arterial streets the required distance should be three hundred feet (300'). No driveway shall be permitted to access a public street within twenty-five feet (25') of the end of radius at a street intersection.
- D. Single-family residences shall normally have only one (1) driveway for each residential lot. The approved driveway shall not exceed ten percent (10%) of the square footage of the lot nor shall the driveway within the front yard of a single family residence occupy greater than fifty percent (50%) of the area between the building setback line and the public right of way. In considering exceptions, the Zoning Administrator shall apply the criteria in subparagraph (a) above, the City Comprehensive Land Use Plan, the Zoning Classification of the lot, and the compatibility of the proposed use with other land uses within the vicinity of the lot before approving any exceptions to this requirement. Driveways and associated off-street parking areas for single-family residences shall not be located closer than one foot (1') from an adjoining residential lot line unless such driveway is jointly used by the adjoining residential lot owner and a joint access easement has been filed as a public record.

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4.12014. ACCESSORY BUILDING AND STRUCTURES. No accessory building or structure shall be erected in a required yard, except as provided hereafter.

1. Accessory building or structure which is located entirely within the principal building area of the lot (the lot area minus the required yards) whether attached or detached to the principal building, shall be subject to the regulations applicable to the principal building.
2. Accessory building or structures, except buildings housing animals or fowl, may be erected as a part of the principal building or may be connected thereto by a breezeway or similar structure; provided said building shall comply with all yard requirements for a principal building.
3. Detached accessory buildings may be located in rear yards as follows:
  - a. A minimum of ten feet distant from other structures on the lot.
  - b. A minimum of five feet from alley lines and lot lines.
4. Accessory building or structures may be located in side yards no closer than ten (10) feet to the side of the principal building providing the minimum side yard requirements can be met on both corner and side lots.
5. Accessory buildings shall be no closer to the front right-of-way line than the front line of the principal building.
6. The accessory building shall not exceed one story of twenty feet in height.
7. Accessory buildings and structures shall not occupy more than 30% of any yard area on a lot, however this regulation shall not be interpreted to prohibit the construction of a garage which does not exceed 550 square feet of building area.
8. No more than two (2) accessory buildings or structures shall be allowed on any lot within any residential district.
9. No accessory building or structure shall be located on a lot before the principal building or use.

10. Detached garages and accessory structures shall be residential in character with similar architectural features as the principal structure, including roof slope, overhangs, etc. The exterior surface of detached garages and accessory structure which are metal clad shall be pre-finished colored steel or similar cover. Galvanized metal is prohibited as the exterior finish material in residential zoning districts.

11. All detached accessory buildings or structures on a permanent foundation under 720 square feet in area shall be constructed on at least a 3  $\frac{1}{2}$  inch concrete slab with not less than 6 inch by 6 inch continuous footings around the perimeter; if the structure is set on sloping ground, the footing shall be a minimum of 12 inches by 6 inches into existing soil. All detached accessory buildings or structures on a permanent foundation over 720 square feet in area, but less than 1,000 square feet in area shall have either frost-protected footings extending 42 inches below finished grade (minimum 6 inches thickness) or a 6 inch thick poured concrete slab containing throughout a minimum of  $\frac{1}{2}$  inch reinforcement bar spaced on 30 inch centers with not less than 6 inch by 6 inch continuous footings around the perimeter. All detached accessory buildings or structures on a permanent foundation over 1,000 square feet in area shall have frost-protected footings extending 42 inches below finished grade (minimum 6 inches thickness)

4.12015. CORNER LOTS. For corner lots platted after the date the City zoning ordinances first became effective, the street side yard shall be equal in width to the minimum required side yard for the district in which it is located, plus twenty feet; provided however, this regulation shall not require a side street yard of greater width than the minimum required front yard width.

On corner lots platted and of record at the time of the date the City zoning ordinances first became effective, the same regulations shall apply except that this regulation shall not reduce the buildable width of the corner lot facing an intersecting street and of record to less than twenty-eight feet nor to prohibit the erection of an accessory building.

For corner lots, platted after the date the City zoning ordinances first became effective, the minimum required lot width shall be increased by an amount not less than twenty feet so as to allow for the additional required street side yard.

4.12016 FENCES, WALLS, AND VISION CLEARANCE.

1. On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision between a height of two and one-half feet and ten feet above the centerline grades of the area described as follows:

That area bounded by the street right-of-way lines of a corner lot and a straight-line joining point on said right-of-way lines twenty-five feet from the point of intersection of said right-of-way lines.

This regulation shall not apply to the DC-Downtown Commercial District.

- a. Any fence installed or constructed in any zoning district using materials with only one (1) finished side shall have the finished side exposed to the street right of way or the exterior of the lot.
2. In any district, fences and walls not exceeding six feet in height are permitted within the side and rear yard areas. A fence or wall not exceeding four feet in height is permitted within the front yard area. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.
3. In any district where a fence or wall is required by this Chapter, the Subdivision Chapter or other Chapter, to serve as a screening wall, buffer wall or other separating or protective wall, the restrictions of Paragraph 1 above, shall yield to the requirements of the specific ordinance.
4. All swimming pools shall be completely surrounded by a fence or wall not less than six (6) feet in height and at least three (3) feet from each side of the pool, with unobstructed clearance. Such fence or wall shall be non-climbable, and shall be constructed of solid materials (wood, brick, cinder block, composite or metal) with vertical spacing of no more than four (4) inches. Such fence or wall shall be sufficiently

strong and of such structural design to make the swimming pool inaccessible. All gates or doors opening to the swimming pool shall be equipped with a self-closing or self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use. In the event a deck is constructed immediately adjacent to the swimming pool, the portion of the fence or wall that is above deck level shall be no less than forty-two (42) inches and no greater than forty-eight (48) inches in height. In this event, and only in this event, the total fence height may exceed the six (6) feet requirement if necessary to achieve the above deck level height requirement.

An exemption to the requirements of Paragraph 4 above may be granted by the Zoning Administrator, or his or her designee, for a fence affixed to the top of the perimeter of the pool and which completely surrounds the perimeter of the pool, for so long as such fence is manufactured by the manufacturer of the pool and approved for usage on such pool by the manufacturer of the pool. Such fence must meet all requirements of Paragraph 4 above with the limited exception of the three (3) foot setback from the side of the pool. Further, such fence must remain affixed to the pool year-round.

4.12017. REQUIRED YARD CANNOT BE REDUCED. No lot shall be reduced in size so as to make the width or total area of the lot or any yard, or any other open space, less than the minimum required by this Chapter. No part of a yard or other open space about any building or structure for the purpose of complying with the provisions of this Chapter shall be included as part of a yard or other open space required under this Chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Chapter.

The following parking regulations shall apply in all R-Residential Districts within the City:

a. FRONT AND SIDE YARDS. No off-street parking allowed except for licensed and operable motor vehicles on the private driveways or parking lots which are duly approved or authorized for such use by the Zoning Administrator pursuant to this Zoning Ordinance:

b. REAR YARDS. No off-street parking allowed except for:

1. Licensed and operable motor vehicles on driveways or parking lots duly approved or authorized for such use by the appropriate city officials pursuant to this Zoning Ordinance or:

2. Not more than one of any of the following types of property on the other rear yard areas:

- a. Licensed and operable motor vehicles
- b. Licensed trailers
- c. Any other type of operable machinery or equipment

Any person desiring a variance from these regulations shall apply for a permit temporarily permitting parking for a period not to exceed 60 days. This application shall be in writing to the Zoning Administrator upon such application form as is prescribed by the Zoning Administrator. The fee to accompany said application shall be \$5.00 and is non-refundable in all cases. The application shall include a site plan, if required, and such other plans, information or justification necessary to clearly establish the basis for the requested permit or such other information as may reasonably be required by the Zoning Administrator in reviewing the application. Nothing herein shall be construed so as to prevent application for a new temporary permit following expiration of any permit obtained in accordance herewith; however, the granting thereof shall not be deemed a matter of right on the part of the applicant and the granting thereof, as in the case of an initial permit, shall be at the discretion of the Zoning Administrator. Appeals from the decision of the Zoning Administrator upon said application shall be taken pursuant to Section 4.12090 of this Code.

These off-street parking regulations within R-Residential Districts shall not apply to any vehicle or trailer which in common usage is moved by human power alone or to any vehicle parked within either an attached or detached garage or within other duly authorized accessory structure.

4.12018. BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the City and on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the setback requirements of the Zoning Ordinance shall govern, subject to Section 4.12093,A,3.

4.12019. PENDING APPLICATIONS FOR BUILDING PERMITS. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this Chapter.

R-1 LOW DENSITY RESIDENTIAL DISTRICT

4.12020. PURPOSE. The purpose of the R-1 Residential District is to provide for low density residential land usage and accessory uses particularly in fringe areas of the city where such low density would not require a full complement of public infrastructure. Also, this district is intended to be located in those areas where there are special landscapes and environmental conditions intended to be preserved but also capable of sustaining some development and where low density will serve to preserve such natural conditions as opposed to normal residential densities, which would significantly alter or destroy such natural amenities. Also this district is intended to reduce urban runoff, flooding, erosion and water contamination and is intended to facilitate low intensity development with low impacts on scenic and timbered landscape areas, all in accord with the Comprehensive Plan.

4.12021. USE REGULATIONS. A building or premises shall be used only for the following purpose:

A. PRINCIPAL PERMITTED USES

1. Single Family Dwellings
2. Agricultural uses limited to cultivation, pasture and wood lots
3. Permitted uses of the CO-Conservation-Open space District

B. ACCESSORY USES

1. Normal accessory buildings and structures for a dwelling such as private garages, children's playhouses, radio and television receiving antennas, barbecue pits, playground equipment, tennis courts, etc. A private garage of less than three car capacity may be rented for the storage of private vehicles of persons not residents on the premises.
2. Normal accessory buildings and structures for public recreation areas such as refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.

3. Horses for personal use only, rather than commercial use, may be kept in this district provided that no grazing or structure housing such animals shall be located less than 200 feet from any structure used for dwelling purposes (other than the residence of the owner of such animals), nor less than 200 feet from the front lot line. Any structure housing such animals shall be located at least fifty feet from all side or rear boundary lines of the property on which the structure is located. Not more than two animals may be kept on any lot or parcel of land of less than two acres in area, and one additional animal may be added for each additional acre over two acre. These number limitations shall not apply to tracts of land of ten acres or more in size.
4. Domestic animals such as cats, dogs, birds, tropical fish, etc. Horses, cows, sheep, chickens, etc., normally considered farm or wild, untamed and dangerous animals, shall be excluded except as otherwise provided in this Code.
5. In Home Day Care Provider with 6 or fewer children.
6. Flower and vegetable gardening for noncommercial purposes.
7. Greenhouses and horticultural nurseries for noncommercial purposes.

C. SPECIAL EXCEPTION USES

1. Home Occupations which are conducted entirely within a dwelling and carried on by persons residing therein, which use is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof. Those occupations shall be excluded which normally are classified as a trade and require the substantial use of employees or subcontractors or mechanics tools or equipment.
2. In Home Day Care Provider with more than 6 children

4.12022. MAXIMUM HEIGHT REGULATIONS. No principal building shall exceed 35' in height.

4.12023. LOT AREA, FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Frontage	Front Yard Depth s	Side Yard Least Width on any one Side	Sum of Side Yards	Rear Yard Depths
Single-Family dwellings and non dwellings Agriculture	2 acres	150 ft.	30 ft.	25 ft.	50 ft.	50 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

The single family dwelling standards of the R-2 Residence District shall apply for such uses in the R-1 Low Density Residential District.

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R-2 SINGLE AND TWO-FAMILY RESIDENTIAL DISTRICT

4.12024. PURPOSE. The R-2 Single and Two-Family Residential District is for single and two-family dwellings designed to develop, maintain, and protect residential neighborhoods of single family and two family housing and associated residential environments, consistent with the Comprehensive Plan.

4.12025. USE REGULATIONS. A building or premises shall be used only for the following purpose:

A. PRINCIPAL PERMITTED USES.

1. A single-family dwelling on each lot or building site.
2. Two-family dwellings.
3. Earth sheltered dwellings as defined by this Code.
4. Agricultural field crops but not including the raising of poultry, pets, or livestock for commercial or agricultural purposes.

B. ACCESSORY USES

1. Accessory uses of the R-1 District.

C. SPECIAL EXCEPTION USES

1. Home occupations which are conducted entirely within a dwelling and carried on by persons residing therein, which use is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof. Those occupations shall be excluded which normally are classified as a trade and require the substantial use of employees or subcontractors or mechanics tools or equipment.
2. Poultry, rabbits, chinchillas, mink, hamsters, pigeons and other fowl or small animals for personal use only rather than commercial use may be kept in this District provided that no grazing or structure housing such animals shall be located less than 200 feet from any structure either now or in the future used for dwelling purposes (other than the residence of the owner of such animals), nor less than 200 feet from the front lot line. Any structure housing such animals shall be located at least fifty feet from all side or rear boundary lines of the property on which the structure

is located. Not more than twelve of such poultry, fowl, or small animals may be maintained on any lot or parcel of land of less than one and one-half acres in area.

3. Places of worship and associated public gathering facilities
4. Any educational buildings or institutions.
5. Hospitals, medical and dental clinics and their related professional offices and services, nursing homes, boarding houses, clubs, lodge organizations.
6. In Home Day Care Providers with more than 6 children.
7. Bed and Breakfast Home as defined in 4.12003 of this Code.

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4.12026. MAXIMUM HEIGHT REGULATION. No principal building shall exceed thirty-five feet in height.

4.12027. LOT AREA, FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

Principal Use	Lot Area	Lot Frontage	Front Yard Depths	Side Yard Least Width on any one Side	Sum of Side Yards	Rear Yard Depths
Single-Family dwelling	7,500 sq ft.	60 ft.	30 ft.	5 ft.	15 ft.	30 ft
Two-Family dwelling	12,000 sq ft	60 ft.	30 ft.	12 ft.	25 ft.	30 ft.
Non-dwellings	1 acre	150 ft.	50 ft.	25 ft.	50 ft.	50 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

4.12028. SINGLE AND TWO FAMILY DWELLING STANDARDS. The following standards shall apply to all single and two family dwellings:

1. The minimum dimension of the main body of the dwelling unit shall not be less than twenty-four feet.
2. The dwelling unit shall be erected on frost-free footings of poured concrete installed around the entire perimeter of the structure in accordance with the Building Code. Seasonal rooms may be constructed on a foundation consisting of a minimum six inch by six inch treated woods posts located under all roof bearing points on an approved frost-free footing conforming to the City Building Codes standards; or, the seasonal room foundation may be structurally designed by a registered, professional architect or engineer.
3. The dwelling unit shall be erected on a continuous permanent foundation of either poured concrete or concrete block or securely fastened to this foundation. This requirement shall not apply to Manufactured Homes as defined in Iowa Code Section 414.28 which shall have a foundation system complying with the State of Iowa Building Code as now or hereafter adopted or amended.
4. The dwelling unit shall have a minimum area of eight hundred sixty (860) feet.

5. Single family dwellings subject to the Iowa Horizontal Property Regime Act need only meet one (1) side yard setback requirement; all other dwelling units shall meet the relevant one or two family dwelling requirements in Section 4.12027 of this Code.

6. Every single and two family dwelling which adjoins a street shall have the main entry to it facing a street frontage. For corner lots, the main entry shall face one of the streets. The determination of which entry to the dwelling is the main entry shall be determined by the Winterset Building Official based upon factors including, but not necessarily limited to, the presence of a front door and entry area, the presence of a walkway to the entry, and the presence of windows on the front facade.

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R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

4.12029. PURPOSE. The R-3 Multi-Family Residential District allows for diversity of housing choices, residential environments and housing densities and allows for similar compatible uses designed to maintain, protect and preserve the character of the development and of the neighborhood, all in accord with the Comprehensive Plan.

4.12030. USE REGULATIONS. A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Any use permitted in the R-2 Residential District providing such use shall comply with the minimum requirements of the R-2 Residential District.
2. Multi-family dwellings; providing however, that a minimum of 2,000 square feet of lot area be provided for each dwelling unit.
3. Bed and breakfast lodging

SPECIAL EXCEPTION USES

1. Special Exception Uses of the R-2 Residence district
2. Playground areas and equipment accessory to multi-family dwellings.
3. Community centers for recreational, laundry and other service facilities for multi-family dwellings, providing such areas shall not be located to the front of the principal building at ground level or above and such areas shall be screened from public view.

ACCESSORY USES

## 1. Accessory uses of the R-2 Residential District

## 4.12031. BUILDING AREA PERMITTED.

Height of Building	Maximum Building Area of Lot
1 story . . . . .	35%
2 story . . . . .	25%
3 story . . . . .	25%
4 story . . . . .	20%

4.12032. LOT AREA, FRONTRAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed for the R-3 Residence district:

Principal Use	Lot Area	Lot Frontag e	Front Yard Depth s	Side Yard Least Width on any one Side	Width Minimu m Sum of Both Side Yards	Rear Yard Depths
Single- Family dwellings	6,500 sq ft	60 ft.	25 ft.	5 ft.	15 ft.*	30 ft
Two-Family dwellings & day nurseries	7,500 sq ft.	60 ft.	30 ft.	10 ft.	20 ft.	35 ft.
Multi- family dwellings	10,000 sq ft.	80 ft.	30 ft.	10 ft.	20 ft.	35 ft.
Non- dwellings	1 acre	150 ft.	50 ft.	25 ft.	50 ft.	50 ft.

\*Each lot shall have a minimum access to the rear yard of 10 ft.

The enforcement of the lot frontage requirement for cul-de-sac and loop lane streets may be at the building setback line for the lots located on the radius of the street.

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4.12033. SINGLE AND TWO FAMILY DWELLING STANDARDS. The single and two family dwelling standards of the R-2 Residence District shall apply for such uses in the R-3 Residence district.

4.12034. OFF-STREET PARKING. The provisions of Section 4.12070 shall apply

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TD-1 RESIDENTIAL-COMMERCIAL TRANSITION DISTRICT

4.12035. PURPOSE. This district is intended to be a mixed-use, buffer one between the Commercial District uses and areas intended to remain residential. This District includes mixed uses of moderate intensity such as offices, service uses, small-scale retail and diverse housing types. This district is also intended to protect residential neighborhoods from the intrusion of intensive commercial uses and is intended to help protect residential property values and to prevent the decentralization of commercial uses from the downtown area. Off street parking is required in this District. This District is intended to be compatible with the Comprehensive Plan.

4.12036. USE REGULATIONS. A building or premises shall be used for only the following purposes:

A. PRINCIPAL PERMITTED USES

1. Permitted uses of the R-3 Residential District
2. Charitable and religious uses
3. Professional offices less than 2,500 sq. ft.
4. Medical clinics and medical offices
5. Retail and personal service businesses less than 2,500 sq. ft.
6. Restaurants
7. Gas stations and convenience stores, but no automobile garages or repair shops
8. Museums

B. ACCESSORY USES

1. Customary accessory uses

C. SPECIAL EXCEPTION USES

1. Any office, retail or service business permitted in this District in excess of 2,500 sq. ft.
2. Educational institutions.
3. Public and private entertainment or recreation facility.
4. Special exception uses of the R-3 District.
5. Home occupations.
6. Daycare including In-Home Daycare Providers with more than six (6) children

4.12037. HEIGHT, AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The requirements of the C-Commercial District shall apply.

4.12038. OFF-STREET PARKING. The provisions of Section 4.12070 shall apply.

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TD-2 DOWNTOWN COMMERCIAL TRANSITION DISTRICT

4.12039. PURPOSE. This District is intended to provide a land use buffer between the downtown commercial area and neighborhoods intended to remain residential. This district is also a pre-designated area which is planned for the expansion of the Downtown Commercial zoning district as needs arise. An overall intention is to provide for the growth and survival of a viable downtown area and at the same time provide planned limits to such growth in the interest of protecting residential values and living environments. This District is intended to be consistent with the Comprehensive Plan.

4.12040. USE REGULATIONS. A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Any Principal Permitted Use of the DC-Downtown Commercial District.
2. Any Principal Permitted Use of the R-3 Multiple Family Residential District.

B. ACCESORY USES

1. Customary accessory uses.

SPECIAL EXCEPTION USES

1. In Home Day Care Providers with more than 6 children.
2. Day care centers

4.12041. HEIGHT, YARD AND BUILDING MATERIAL REQUIREMENTS. For all residential uses in this District the standards of the R-3 District shall apply. For all Commercial uses in this District the following standards shall apply:

1. No principal building shall be taller than 35'.
2. Front, side and rear yard depth shall be a minimum of 5'.
3. No open space requirements.
4. No unloading zone requirements.
5. Building materials; the provisions of Chapter 12 Section 4.12048 of this Code shall apply.

4.12042. OFF-STREET PARKING. Off street parking is required for all uses in this district. The provisions of Chapter 12 Section 4.12070 shall apply

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DC-DOWNTOWN COMMERCIAL DISTRICT

4.12043. PURPOSE. The DC-Downtown Commercial District is intended to provide the retail business and commercial service core of the community. It is intended to provide diversity of business environments and opportunity. The area's historic and architectural qualities are intended to be preserved and enhanced in accord with an overall theme which is reflected in design continuity of structures including public infrastructure and landscaping.

4.12044. DISTRICT BOUNDARIES. The DC-Downtown Commercial District shall be those represented on the city's official Zoning Map, and as may be changed from time to time.

4.12045. USE REGULATIONS. A building or premises shall be used for the following or similar type uses.

A. PRINCIPAL PERMITTED USES.

1. Retail business or service establishments to include, but not limited to, the following:

Antique shop  
Apparel shop  
Art goods and bric-a-brac shop  
Artist shop and studio  
Ballroom and dance hall  
Bakery  
Bank, including drive-in teller service  
Barbershop or beauty salon  
Bicycle sales  
Billiard parlor and pool hall  
Bookstore  
Bowling alley  
Candy shop  
Catalog merchandise store  
Charitable and non-profit institutions and facilities, lodges or  
fraternal or public service clubs or organizations  
Cigar and cigarette store  
Clothes cleaning and laundry pickup station  
Collection office of a public utility  
Confectionery and ice cream store  
Convenience stores with gas stations  
Curio, hobby and bric-a-brac store  
Dance and/or music studio  
Drugstore  
Florist shop  
Furniture store  
General hardware store

General department store  
Gift shop  
Governmental administrative offices  
Governmental public protection facilities and water supply  
Grocery, delicatessen or meat market  
Hardware, paint, wallpaper and landscape supply store  
Indoor Showroom of Motor Vehicles  
Jewelry store  
Laundromat  
Leather goods store  
Messenger office and newsstand  
Millinery shop  
Movie theatres and other performing arts establishments  
Museums, libraries and other cultural attractions  
Music store and record shop  
Office equipment sales and service  
Pet shop  
Photographic store and/or studio  
Plumbing and Heating Retail Sales only with no outside  
storage of supplies, equipment, inventory, used heating  
and/or plumbing items or other materials allowed  
Post Office substation  
Printing  
Professional services  
Radio and television sales and repair  
Radio or TV broadcasting station, studios and offices  
but not towers in excess of 100 feet  
Restaurant and bakeries  
School-business, commercial, dancing or music  
Shoe and Shoe repair shop  
Small animal clinic  
Small appliances or household appliances or electronics  
sales and/or repair  
Variety store

2. Any use found by the Zoning Administrator to be compatible with those retail uses specified herein and not injurious to the neighborhood or detrimental to the public welfare may be permitted by the Zoning Administrator subject to such reasonable restrictions established by the Zoning Administrator to preserve and maintain the intent and purpose of this Zoning District. Subsequent violation of these restrictions shall be grounds for termination of the permitted use by the Zoning Administrator, in addition to any other penalties or remedies prescribed by law.
3. Outdoor advertising signs in accordance with provisions of Section 4.12080 of this Code.

4. Private overhead or area lighting shall be located and focused so as to avoid casting direct light upon any adjacent residential property, or interfere with a traveled portion of a public street.
5. Construction and alteration within any city-adopted Fire Zone must comply with any applicable fire code regulations

**B. ACCESSORY USES**

1. Any accessory uses customarily incidental to the principal use permitted providing such accessory use shall comply with the minimum requirements for the DC-Downtown Commercial District.
2. Single Family, Two Family, and Multi-family Dwelling Units may be located within this DC-Downtown Commercial District as follows:
  - i. Single Family, Two Family, and Multi-family Dwelling Units only when located on the second floor or above of the building structure; or
  - ii. Multi-Family Dwelling Units only when located on the first floor or above of the building structure which are within the following areas of the zoning district:

<u>LOT NUMBER</u>	<u>BLOCK NUMBER</u>
3 and 4	11
1,2,3,4,5,6	10
3,4,5,6	18
3,4,5,6,7,8	23
5,6	24
1,2,3,4,7,8	12
1,2,7,8	17
1,2,7,8	25

**C. SPECIAL EXCEPTION USES**

1. Hotels and related facilities
2. Convenience store
3. Taverns and night clubs
4. Amusement parlors and arcades
5. Public and private parking lots
6. Day care centers
7. Automated bank telling services at a location remote from and not otherwise physically accompanied by principal banking or drive-in teller services.

4.12046. LOT AREA, LOT FRONTRAGE, YARD And HEIGHT REQUIREMENTS. The following minimum requirements shall be observed:

Lot area	None
Lot frontage	None
Front yard depth	None
Side yard least width any one side	None, except adjacent to an R-Residential District in which case not less than 10 feet.
	Where a side yard is provided it shall not be less than 8 feet wide.
Rear yard depth	None, except abutting an R-Residential District
	in which case not less than 25 feet.
Height	No principal building shall exceed 35, feet in height

4.12047. OFF STREET PARKING. The DC Downtown Commercial District shall be exempt from all off street parking requirements imposed by this chapter.

4.12048. BUILDING MATERIALS AND DESIGN STANDARDS FOR DOWNTOWN HISTORIC PRESERVATION.

A. APPLICATION FOR PERMIT: The facade of any building in the Downtown Commercial district shall not be constructed, reconstructed, improved, or modified without a permit issued by the City Administrator or his/her designee or order from the Board of Adjustment. All applications for a permit shall be submitted to the City Administrator or his/her designee. All applications for a permit shall include a design concept, a detailed list of all building materials intended to be used and the location where such materials will be used, and a detailed list of colors to be used and the location where such colors will be used. In certain circumstances elevation renderings also may be required as part of the application.

B. DEFINITIONS. The following terms are defined for this section:

1. "Accent" means materials used to create focal points, decorative patterns, or unique features within the overall construction.
2. "Artwork" means a physical object that may have an aesthetic and/or conceptual value, excluding advertisement and obscenity.

3. "Façade" means a face of a building including architectural features.
4. "Façade, front" means the face of a building primarily oriented toward and exposed to view from a public right-of-way, excluding alleys, and including architectural features.
5. "Façade, rear" means the façade extending the full width of the structure, including modulations, that is closest to and most nearly parallels the rear lot line.
6. "Façade, side" means the façade extending the full width of the structure, including modulations, that is closest to and most nearly parallels the side lot line.
7. "Mural" means a piece of artwork painted or applied directly on a permanent surface.
8. "Mural Panel" means a piece of artwork painted or applied indirectly on a permanent surface, that is then affixed by a nonharmful method to a surface.
9. "Panel" means a separate or distinct part of a flat surface of construction material made to form part of a larger surface.
10. "Primary" means the main or principal materials used that constitute the façade.
11. "Right-of-way" means an area of land reserved for public or private road, railroad, utility, or other access purposes.
12. "Secondary" means non-primary materials used in construction, for purposes as insulation, finishing, protection, or decoration.

C. MATERIALS. Approved materials shall be used for the exterior building surfaces visible to the public from the right-of-way for all principal buildings and accessory buildings. If a business entrance does not front a right-of-way, the location of the entrance shall be considered a front façade. If a property is located on a corner lot, all sides that front a right-of-way must comply with the required building materials. In the Downtown Commercial District, to the extent possible, original materials shall be retained in existing building facades. Such original material should be removed only when it is structurally unsound and is beyond restoration. In the event that such materials can not be reproduced, then alternative products must be submitted for approval with the intent to match as closely as possible per Section 4.12048.E.1. At no time shall vinyl material be allowed as exterior building material.

1. PRIMARY. Primary materials shall cover at a minimum 60 % of the façade of a building (excluding windows and doors) and shall consist of:

- a. Stone, consistent with limestone or other light colored natural stone;
  - b. Brick; or,
  - c. Horizontal wood lap siding,  $\frac{1}{4}$  inch thick, 4-inch maximum exposure painted in accordance with 4.12048.D.6.
2. ACCENT. Accent materials may cover 10% of the façade and shall consist of:
    - a. Architectural Metals;
    - b. Door and Window Trim; or
    - c. Corbels.
  3. PERCENTAGE OF FAÇADES: Facades must conform to the following material requirements:
    - a. Front Façade:
      - Primary Materials minimum of 80%
      - Accent Materials maximum of 20%
    - b. Side Façade:
      - Primary Materials minimum of 40%
      - Accent Materials maximum of 10%
    - c. Rear Façade:
      - Must comply with the current city building code
  4. WINDOWS AND DOORS Windows and doors are not used in the calculation of the percentage of façade materials. Windows and doors shall conform to the following requirements:
    - a. Glass shall be clear without tint and be non-reflective
  5. COLOR PALETTE: Colors from the "Sherwin Williams Historic Exterior Collection" which are muted and desaturated shall be used. As necessary to sufficiently highlight the façade details, a maximum of 3 colors, in addition to the base brick color, may be used.
  6. MURALS AND MURAL PANELS: Murals and panels in the Downtown Commercial District shall comply with the following requirements:
    - a. Murals and panels shall be placed on non-primary facade of buildings.
    - b. Placement is to be 10 feet away from the corner of a façade or beyond a side window.
    - c. The theme and colors of a mural shall complement and be harmonious with the historic character of the building.
    - d. Murals shall have a protective coating to inhibit UV, graffiti, accidental removal and minimize water contact.

- e. Artwork may be placed on panels which panels are then attached to the building by fasteners through the mortar joints, rather than through the masonry.
- f. As an alternative, murals may be placed directly on masonry that has previously been painted.

- 7. SIGNS: See code section 4.12080. Color palette must comply with section 4.12048.D.5. above.
- 8. AWNINGS: Awnings are allowed on any building consistent with other City Codes and requirements. Awnings shall not exceed six (6) feet in depth. Awnings must provide a minimum of eight (8) feet vertical clearance from the sidewalk to the bottom of the awning. Awnings must be constructed of fire-resistant materials. Vertical awning supports in the surface paving are prohibited. Fixed metal awnings are prohibited. Any awning extending over a public sidewalk or passageway shall require a building permit with a condition of issuance being the Zoning Administrator's determination that the proposed awning complies with the appropriate snow loading standard determined to be appropriate by the Zoning Administrator. Color palette must comply with code section 4.12048.D.6 above.

**D. EXCEPTIONS.**

- 1. ALTERNATIVE BUILDING MATERIAL METHOD OF APPROVAL: The Planning and Zoning Commission may consider alternative materials not explicitly approved in this code through a formal application process. The applicant must demonstrate that the proposed alternative materials meet or exceed the performance, safety, and aesthetic standards outlined in the existing code.
- 2. EXISTING NON-CONFORMING MATERIALS: Any building with nonconforming building materials requiring repairs or maintenance as a result of damage which exceeds 20% of the square footage of the individual façade as determined by the City Administrator, Building Inspector or designee, shall not be repaired, restored or reconstructed and the building must conform to the current code. If the area of such repairs is less than 20% of the individual facade, it may be restored or reconstructed provided that such repairs can be completed within six (6) months.

**E. ADMINISTRATION AND ENFORCEMENT.** The provisions of this Code Section shall be administered and enforced in accordance with Code Section 4.12083 hereinafter.

**F. APPEALS.** Appeals related to provisions of this Code Section shall be controlled by Code Sections 4.12090 through 4.12095.

C-COMMERCIAL DISTRICT

4.12049. PURPOSE. The C-Commercial District is intended to provide areas for retail, commercial, service and related uses having substantial space requirements and having requirements of direct accessibility to arterial streets and highways. This district is intended to provide the space needed for uses having large parking, loading and storage requirements and not conducive to pedestrian shopping. This District is not intended to duplicate or weaken the Downtown Commercial District and is intended to be consistent with the Comprehensive Plan.

4.12050. USE REGULATIONS. A building or premise shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Permitted uses of the TD-1 Residential-Commercial Transition District except the "Permitted uses of the R-3 Residential District.
2. Any other use not otherwise allowed by this section involving the exchange or buying and selling of commodities or services whether for profit or not, but not including any principal permitted uses in the I-Industrial District
3. Supermarkets, pharmacies.
4. Wholesale businesses.
5. New Automotive and new farm equipment/implement sales and related repair services; used automotive and used farm equipment/implement sales only; automotive parts sales stores; however, no salvage or junk yard operations of any kind.
6. Mobile home and manufacturing home sales and display.
7. Fruit and vegetable markets, green houses and nurseries.
8. Animal hospitals, veterinary clinics and pet shops.
9. Commercial or institutional outdoors recreational uses and fields.
10. Lumber and Building Supply Retail/Storage Yards.
11. Warehouses and self-storage facilities.
12. Merchandise fulfillment centers including telemarketing facilities.
13. Bowling alleys, dance halls, auditoriums and movie theatres.
14. Hospitals, clinics and related professional offices and services.
15. Private clubs and lodges.
16. Nursing homes.

17. Residential facilities for physically or mentally impaired including halfway houses and rehabilitation facilities.
18. Funeral homes.
19. Places of worship.
20. Educational institutions.
21. Restaurants.
22. Motels.
23. Bank facilities.
24. Rescue missions and leagues.
25. Cabinet maker/custom carpentry.
26. Laundromat
27. Plumbing, heating, and/or air conditioning retail sales
28. Tavern & Nightclubs
29. Convenience store
30. Day care

**B. SPECIAL EXCEPTION USES.**

No occupancy permit shall be issued for any of the following uses until such use shall have been authorized by the Board of Adjustment after reports by the Planning and Zoning Commission, engineer, Chief of the Fire Department and the Health Department:

1. Special Exception Uses of the DC-Downtown Commercial District
2. Gas cylinder recharging
3. Go-cart tracks
4. Race tracks for any motorized vehicles or devices
5. Shopping centers or additions there-to
6. Towers and structural elements, other than buildings, taller than 35 feet.
7. Columbarium, crematories, mausoleums unless inside a cemetery
8. Mobile home parks, subject to the minimum standards of Chapter 12 Section 4.12066
9. Travel trailer parks, subject to the minimum standards of Section 12 Chapter 4.12067.
10. Automobile body repair, wash and body shops
11. Automotive Repair Garage.
12. Farm equipment/implement repairs.
13. Automated fuel dispensing services at a location remote from and not otherwise physically accompanied by principal gas station or convenience store services.

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4.12051. HEIGHT REGULATIONS. No principal building shall be taller than 35 feet.

4.12052. LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be followed:

Front yard depth	25 feet
Side yard least width on any one side	15 feet except adjacent to Residential District in which case not less than 20 feet.
Width: minimum sum of both side yards	30 feet
Rear yard depth	25 feet

4.12053. OFF-STREET PARKING. The provisions of Section 4.12070 of this Code shall apply.

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I-INDUSTRIAL DISTRICT

4.12054. PURPOSE. This district is established to provide for manufacturing or other industrial uses at locations all consistent with land use planning principles and industrial location standards, and compatible with surrounding neighborhoods, adequately served by utilities and vehicle and truck access, compatible with the natural environment and consistent with the Comprehensive Plan.

4.12055. USE REGULATIONS. A building or premises may be used only for any of the following permitted uses:

A. PRINCIPAL PERMITTED USES

1. Automobile body repair shop
2. Automobile repair garage
3. Automobile construction, assembly or factory specializing in the rework or rebuilding of automobile components
4. Auto service stations and/or convenience store
5. Bag, carpet and rug cleaning
6. Industrial Bakery
7. Carpenter and cabinet shop engaged in bulk production
8. Commercial cleaning facility
9. Concrete mixing, concrete products manufacture
10. Contractor's equipment and materials storage yard
11. Creamery, bottling works, dairy ice cream manufacturing
12. Ice manufacturing and cold storage plant.
13. Enameling, lacquering or japanning
14. Foundry casting lightweight nonferrous metals or Electric foundry not causing noxious fumes or odors.
15. Laboratory - experimental or testing
16. Lumber and building manufacturing or assembly yard
17. Machine shop
18. Milk distributing station
19. Motor freight terminal
20. Plumbing, heating and/or air-conditioning manufacturing and/or reconditioning
21. Sawmill, planning mill, including manufacture of wood products
22. Sheet metal shop
23. Kennels
24. Agricultural services such as hatcheries and laboratories
25. Concrete ready-mix plants
26. Manufacturing, assembly and processing of any metal or non-metal products, not otherwise prohibited in this section.
27. Circus or carnival or similar transient enterprises
28. Truck terminals and municipal garages and yard facilities
29. Whole businesses

30. New automobile and farm implement sales and repair, used automobiles and farm implement sales only, auto parts stores, but not salvage or junk yard operations.
31. Mobile homes and manufactured home sales and display.
32. Animal hospitals, veterinary clinics and pet shops.
33. Lumber and building supply retail/storage yards.
34. Warehouses and self-storage facilities.
35. Merchandise fulfillment centers including telemarketing facilities.
36. Cabinet maker/custom carpentry.
37. Professional, Mental health and counseling services.

**B. ACCESSORY USE**

Any accessory use customarily and incidental to a permitted principal use.

**C. SPECIAL EXCEPTION USES.**

No occupancy permit shall be issued for any of the uses until and unless the location of such use shall have been authorized by the Board of Adjustment after reports by the Planning and Zoning Commission and, when deemed appropriate by the Board, the City Engineer, Chief of the Fire Department and the County Health Department:

1. Abattoir and slaughterhouse or stockyard
2. Acid manufacture or wholesale storage of acid
3. Cement lime, gypsum, or plaster of paris manufacture
4. Chemical manufacturing
5. Distillation of bones
6. Fat rendering
7. Garbage, offal or dead animals reduction or dumping provided that all refuse is earth covered daily
8. Gas manufacture and cylinder recharging
9. Glue, size or gelatin manufacture
10. Junkyard where the premises upon which such activities are conducted are wholly enclosed within a building, wall or fence, not less than six feet in height, completely obscuring the activity from surrounding lots.
11. Petroleum or its products, refining or wholesale storage of gasoline, gasohol and diesel.
12. Rubber goods manufacture
13. Sand or gravel pits provided they are enclosed by a fence which provides an effective barrier against trespassing.
14. Smelting of tin, copper, zinc or iron ores
15. Electric power and transmitting station

16. Manufacturing, blending, bulk storage and sales of any flammable, explosive, or toxic substances, including but not limited to: gasoline, fuel oil, liquid petroleum, anhydrous ammonia, fertilizer, pesticide, herbicide, fuel oil, dynamite and fireworks. For purposes of this paragraph, "bulk storage" means storage for other than on premise retail sales as part of a retail business. Any such facility which is permitted shall be a minimum of 500 feet distant from the property line of any residential property.
17. Any food manufacturing or processing plant including meat packing plants
18. Airports and customary accessory uses
19. Caretakers quarters incidental to a permitted industrial use.
20. Wind powered electrical generation facilities.
21. Family-Oriented Live Performing Arts Facility.

D. COMPLIANCE WITH OTHER LAWS AND REGULATIONS.

No permitted or special exception use in the Manufacturing District will be permitted if it is in conflict with any ordinance of the City of Winterset, Iowa; or law of the State of Iowa which regulates nuisances; or if a proposed use has not produced evidence of being able to meet or has met all requirements and regulations of any other State or Federal laws related to land use development, construction, environment or waste disposal.

E. REQUIRED CONDITIONS.

1. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, offensive or will pollute the air or water due to the emission of cinders, fumes, noise, odor, smoke, refuse matter or water carried waste.

2. The best practical means known shall be employed for the disposal of refuse or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance.

3. All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 200 feet from any R-Residential District and not less than 100 feet from any other district except an I-Industrial District.

4.12056. HEIGHT REGULATIONS. Not over 45 feet for any building, exclusive of penthouse structures, or utility fixtures, elevator augers and shafts and similar functional devices serving the principal use and secondary to it.

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4.12057. LOT AREA, LOT FRONTRAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed.

Uses	Lot Area	Lot Width	Front Yard Depth	Side Yard Each Side	Rear Yard Depth
All Uses	20,000 sq ft	100 ft	45 ft	23 ft	45 ft

\*All yards in the I-Industrial District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.

I-Industrial District adjacent to any R-Residential District, the minimum setback shall be fifty feet from the I-Industrial District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions of the required minimum front yard dept.

4.12058. OFF-STREET PARKING. The provisions of Code Sections 4.12070 and 4.12071 pertaining to off-street parking and loading areas shall apply to this Zoning District.

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A-AGRICULTURAL DISTRICT

4.12059 PURPOSE. The A-Agricultural District is intended to accommodate conventional farming land use, woodland and nursery use, and customary accessory uses. This district is intended to be used to protect farm operations and farm owners for those lands not subject to plans for urban development. Land use for this District is intended to be planned in accordance with the Comprehensive Plan.

4.12060. USE REGULATIONS. A building or premises shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

1. Agricultural land use and activities
2. Truck gardening and nurseries, provided that no permanent dwelling units shall be erected thereon unless the tract contains ten or more acres.
3. Forest and forestry.
4. Seasonal, portable roadside vegetable stands no larger than 500 sq. ft. with no customer parking on a public highway or street right-of-way.
5. Farm-related residences of a farm owner, operator or lessee or a parent or child of such owner, operator or lessee located on the farmstead of the farm. There may be up to two such farm-related residences on a single farmstead and one additional farm or non-farm residence per quarter-quarter section of the same farm ownership exclusive of the quarter-quarter section where the farmstead is located.
6. Grain storage
7. Seed corn dealers
8. Dealerships and sales of farm related products and equipment carried on as a home occupation of the farm owner, operator or lessee.

B. ACCESSORY USES.

1. Accessory buildings and uses customarily incidental to any of the above uses.

Bulletin boards and signs pertaining to the lease, hire, or sale of a building or premises, or signs pertaining to any material that is grown, or treated within the district; provided, however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, or stored.

SPECIAL EXCEPTION USES

1. Kennels and the residence of the owner or operator
2. Junk, salvage or wrecking yards and the residence of the owner or operator
3. Trucking terminals, and the residence of the owner or operator
4. Livestock sales barns and related facilities including the residence of the owner, operator or custodian
5. Fair grounds and related race tracks, concessions and customary and historic Madison County fairground activities
6. Grain elevators and related storage; and fertilizer storage, mixing and sales
7. Any other non-farm storage, processing or manufacturing uses including food products for human or animal consumption
8. Home occupations
9. Mining operations, including Rock quarries, gravel pits and customary accessory uses.
10. Mink ranches
11. Sanitary landfills, incinerators and other waste disposal facilities provided such facilities possess all required federal and state permits before being eligible to receive a Special Exception Use permit from the City of Winterset.
12. Accessory uses larger than the principal permitted use.
13. Travel trailer parks per the standards of section 4.12067.
14. Shooting ranges including trap shooting
15. Non-commercial park, playground, golf courses) both public and private) and recreational use.
16. Transmitting stations and communications towers
17. Airports and customary accessory uses.

4.12061. HEIGHT REGULATIONS. Any building hereafter erected or structurally altered may be erected to any height not in conflict with other existing or future Ordinances of the City of Winterset, Iowa.

4.12062. LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS. The following minimum requirements shall be observed:

<u>Principal Use</u>	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depths</u>	<u>Side Yard Least Width on any side</u>	<u>Width Minimum Sum on both Sides</u>	<u>Rear Yard Depths</u>
All uses	10 Acres	200 ft.	50 ft.	50 ft.	100 ft.	50 ft.
Dwellings	2 acres	200 ft.	50 ft.	50 ft.	100 ft.	50 ft.

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CO-CONSERVATION-OPEN SPACE DISTRICT

4.12063. PURPOSE. The CO-Conservation-open space district is established to provide protection to environmentally sensitive lands such as flood plains, wetlands, drainage courses, and park lands and also to enhance the performance of these lands in their natural functions. The standards of this district are intended to promote the health, safety and general welfare of the public through the protection of water quality, prevention of erosion and siltation, and the preservation of natural open spaces and plant material for the maintenance of air quality. The cutting of non-nuisance plant material is discouraged to protect scenic beauty, control erosion and reduce the flow of pollutants and nutrients into streams and drinking water supplies.

4.12064. USE REGULATIONS. A building or premise shall be used for only the following purposes.

A. PRINCIPAL PERMITTED USES

1. Truck gardening, hay fields, garden plots
2. Parks, play grounds, athletic fields and camp grounds
3. Recreational trails
4. Public roads and streets
5. Wood lots and orchards
6. Raising and keeping horses for personal use provided there is at least two acres of land available per horse with adequate shelter provided. Lands where horses are present must be securely fenced with any horse stable or shelter being at least 100 feet from any Residential zoning district boundary line and with no manure storage or spreading within this 100 foot distance.
7. Cemeteries
8. Historic, cultural and outdoor educational attractions and facilities.
9. Other uses similar to the above uses and compatible with the purpose of this district

B. Customary accessory uses

C. SPECIAL EXCEPTION USES

1. Any utility structure, substation, transmission line or pipeline
2. Dams, dikes, drainage channels, reservoirs, ponds or other devices intended to affect flowing or standing water.
3. Private roads and streets.
4. Any private filling, grading, impounding, dredging or land filling.
5. Any building in excess of 200 square feet.
6. Shooting ranges including trap shooting.

D. PERFORMANCE STANDARDS

1. Height limitation: maximum of 30 feet
2. Lot area and density: no minimum
3. Lot width: no minimum
4. Front yard setback: 35 feet
5. Side yard setback: 35 feet
6. Rear yard setback: 35 feet
7. Area of structures: no minimum
8. Parking: per Section 4.12070
9. Signs: per Section 4.12080
10. Flood prone areas: No temporary or permanent building or other obstruction shall be placed in any flood prone area on within any natural drainage course.
11. Land disturbance: There shall be no land disturbance, including cultivation for agricultural farming, within 100 feet of the shore lines of any course of natural flowing water or within 100 feet on either side of the center line of a drainage course having intermittent natural drainage flows. No stream or drainage course shall be straightened or altered except in accord with a professionally prepared plan justifying the need for such work and with such plan approved by the Winterset City Council
12. Trees: Clear cutting of trees is prohibited and the cutting of trees solely for income purposes is prohibited. The cutting of trees, including substantial seedlings, can be done for the purpose of silvicultural thinning and in following a formal plan of a state forester official and for removal of diseased and hazardous trees.

PLANNED UNIT DEVELOPMENT ZONING DISTRICT

- 4.12064.1   Planned Unit Development District (PUD)
- 4.12064.2   Statement of Intent
- 4.12064.3   Size, Land Use and Maximum Density
- 4.12064.4   Master Plan
- 4.12064.5   Rules, Regulations, and Guidelines for Land Use and Performance
- 4.12064.6   Process for City Review of Planned Unit Development
- 4.12064.7   Recordation of Master Plan and Associated Rules, Regulations and Guidelines
- 4.12064.8   Adjustments and Modifications

4.12064.1. PLANNED UNIT DEVELOPMENT DISTRICT. The Planned Unit Development District (PUD District) is hereby established with the Zoning Regulations hereafter set forth in this Chapter and elsewhere in the Zoning Code to be applicable to the Planned Unit Development District.

4.12064.2. STATEMENT OF INTENT. The PUD District is intended to provide for the development or redevelopment of land under the control and in accordance with a Master Plan providing for development guidelines and standards in which the land uses, transportation elements, building densities, arrangements, and types are set forth in a unified plan, which may provide greater flexibility of land use, transfer of development rights within the PUD, bulk regulations, and building locations than the conventional zoning district may permit. The PUD District is intended to maximize benefits from the use of open spaces; maximize aesthetics; encourage certain architectural standards for buildings, permit mixed uses and diversity of bulk regulations without endangering the health, safety, welfare, and land value of surrounding and internal properties. A PUD District may consist of a mix of land uses of residential building types, commercial and limited industrial, provided such approved Master Plan for the Planned Unit Development is compatible with the City Comprehensive Land Use Plan.

4.12064.3. SIZE, LAND USE AND MAXIMUM DENSITY. A PUD District shall be a minimum size of three (3) acres of land; shall have a building unit density not in excess of the density set forth in the City Comprehensive Land Use Plan; and, shall be located within the PUD Zoning District.

4.12064.4. MASTER PLAN. In order to rezone land in the City as a Planned Unit Development District, the Developer shall first prepare and submit to the City in Fifteen (15) copies a Master Plan which shows the generalized overall land use plan for the development of the land area of the proposed PUD District which Plan shall include the following information:

- A. A vicinity map of sufficient scale to show site boundaries and the zoning of adjacent properties within one thousand feet (1,000') of the exterior boundaries of the proposed PUD.
- B. Dimensions, legal descriptions of the land, acreage, existing zoning classification, existing land use and ownership of the land within the proposed PUD District; the existing zoning classification and land use and ownership of the adjacent properties within two hundred feet (200') of the exterior boundaries of the proposed PUD.
- C. The location and delineation of each "parcel" proposed with different land uses and bulk regulations, and a schedule of the proposed land use and bulk regulations for each "parcel" set forth by ordinance.
- D. Existing and proposed location of street, pedestrian ways, trails, parks, recreation areas, open space, buffers, parking areas, schools, and anticipated traffic generation.
- E. Area and number of dwelling units, and anticipated floor area of non-residential buildings by "parcel".
- F. Existing tree masses, water channels, drainage ways, flood hazard areas, and other topographic or environmentally important characteristics.
- G. Proposed privately owned common areas and public ownership areas, including any open space, park land, and school sites.
- H. Location of existing or proposed municipal utilities to serve the PUD District and adjoining properties, including sanitary sewer, storm sewer, electricity and water.
- I. In addition to storm sewer facilities, other required storm water management facilities and requirements shall be shown and/or explained in the Master Plan.
- J. Dimensions of all street right-of-way and paving widths, including all proposed easements areas.

- K. Staging schedule of the development, including anticipated year the construction is to be initiated and the phasing of development planned to be implemented.
- L. Landscape areas proposed as part of small-scale PUD proposals to include the general location of shrubs, trees and earth berms.
- M. Delineate the traffic impacts that would result from the Project and how they can be mitigated.
- N. The Master Plan shall be submitted to the City on paper sheets of 24 inches by 36 inches and at a minimum scale of 1=50.
- O. The Developer shall be deemed a Subdivider under Chapter 10 of Title IV of the Code; the Master Plan shall comply with the City Subdivision Code; and, the Master Plan shall be considered a Preliminary Plat Plan under the City Subdivision Code.

4.12064.5. PUD RULES, REGULATIONS AND GUIDELINES FOR LAND USE AND PERFORMANCE. The Developer shall submit to the City with the Master Plan the proposed rules, regulations and guidelines for the development of the PUD (hereafter the Regulations). In addition, the Developer shall submit to the City a Petition for Rezoning the Land accompanied by the proposed ordinance for the rezoning of the property to a PUD Zoning District. The City shall provide the Rezoning Petition, the proposed zoning ordinance, the Master Plan and the Regulations to the Planning and Zoning Commission (hereafter the Commission) for its consideration as hereafter provided.

The proposed Regulations shall set forth the permitted land use, bulk regulations, transfer of development rights within the PUD land area, height requirements, open space and landscaping requirements, architectural standards, sign regulations, buffer requirements, off street parking and loading requirements, and other performance standards as required by the City for each parcel designated within the Master Plan.

4.12064.6 CITY REVIEW OF THE PLANNED UNIT DEVELOPMENT. The Developer shall present the PUD proposal to the Zoning Administrator as a pre-Application proposal for their comment and discussion. Upon receipt of the Developer's formal Application with the accompanying documents described above, the Zoning Administrator or his or her designee shall review the submitted PUD Application to ensure its completeness and compliance with any policy in effect now or hereafter; may discuss any suggestions or provide additional information to the Developer, and shall present a report together with the Applicant's proposal to the Commission.

A. The Commission shall consider the Application with all accompanying materials pursuant to the following criteria:

1. Compatibility with the City Comprehensive Land Use Plan;
2. Land Use and Density;
3. Building types, functions, architecture, buffers and arrangements;
4. Provision and use of open space and landscaping;
5. Access to and from the site and related traffic circulation; and,
6. General relationship to the adjoining properties and area.

B. The Commission may approve or disapprove the Application, the Master Plan, the Regulations as submitted either in whole or in part and may require the Developer to modify, alter, adjust or amend the Application and accompanying documents as the Commission may deem appropriate in order to preserve the harmonious intent and purpose of this Chapter and the City Comprehensive Land Use Plan.

C. After the Commission's final review of the Application and accompanying documents, the Commission shall present to the City Council its report and recommendation(s) on the matter.

D. Following the receipt of the Commission's report on the Application, the City Council shall set a date for public hearing before the Council on the Petition for Rezoning the land to the PUD Zoning District and upon the Application for the proposed PUD District with Notice thereof as provided by this Chapter. In addition to the public hearing notice requirements, notice of the hearing shall be sent by regular mail at least seven (7) days

prior to public hearing to the owners of property which is located within two hundred (200) feet thereof.

Following the public hearing on the matter, the City Council shall approve or deny the Application and the Rezoning Petition. However, such City Council approval shall not be considered as approval of any final plat under Chapter 10 of Title IV of the City Code (the Subdivision Code) unless and until the Developer has complied with that Code Chapter and, in each instance, each phase thereof is to be separately approved by the City as provided by the Subdivision Code.

4.12064.7. RECORDATION OF MASTER PLAN AND REGULATIONS. Upon final approval of the Application and accompanying documents, the City at the Developer's cost shall record in the Office of the Madison County Recorder the Ordinance rezoning the land to the PUD Zoning District and the Master Plan and Regulations. No "phase" of the PUD District is to be commenced until all the documents have been recorded. The Rezoning Ordinance, Master Plan and Regulations approved by the City shall be binding upon the property owner(s), their heirs, successors or assigns.

4.12064.8. MODIFICATIONS OF APPROVED PUD DISTRICT. Any proposed modification or amendment of the PUD District Plan as finally approved by the City shall be submitted upon Application in the same manner and in the same form(s) as the original Application and shall be submitted by the City to the same review, approval and recordation procedure as the original Application.

SPECIAL EXCEPTION USES

4.12065. REGULATIONS. The regulations set forth in this Article or elsewhere in this Chapter that are applicable shall apply to the special exception uses listed in this Article and listed in the individual zoning districts.

It shall be recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically as permitted uses in the various districts established by this Chapter; therefore, these uses shall be subject to certain conditions and standards set forth in this Article or as set by the Board of Adjustment as part of an application for a specific special exception use and the issuance of a special exception use permit by the Board of Adjustment provided, however; a special exception use permit may not be granted for a use in a zoning district from which it is specifically excluded by the provisions of this Article.

A. SPECIAL EXCEPTION USES PERMITTED IN ANY ZONING DISTRICT. The following special exception uses may be authorized in any zoning district, except as it is specifically excluded or limited by the provisions of this Section.

1. Accessory or branch structures and facilities for public utilities and public service uses, including reservoirs and tanks, pumping stations, telephone exchanges and power and transformer stations; providing, however, equipment storage yards and garages which are considered commercial, business and industrial uses shall not be permitted in any R-Residential District.

2. Buildings and uses, except as herein designated as permitted uses, owned by the City, County, State of Iowa or the U. S. Government or its political subdivisions or by private agencies providing public services for general public benefit on behalf of a political subdivision under written contract with and funded, in whole or in part, by the federal or state governments, or the political subdivisions thereof; provided, however, all such uses shall be compatible with surrounding land uses in the zoning district and shall not be disruptive of, or contrary to, the provisions of Section 4.12001 of this Code. Equipment and vehicle storage yards and public garages involving major mechanical repair or rebuilding shall not be permitted in any R-Residential District.

B. SPECIAL EXCEPTION USES PERMITTED IN INDIVIDUAL ZONING DISTRICTS. The individual zoning districts in this ordinance list those special exception uses which are eligible to apply for a special exception permit subject to the standards of Section 4.12068 and the procedures of Section 4.12069. In addition the Board of Adjustment may impose additional conditions and standards which address specific issues of a requested use and which address issues regarding the specific location and neighborhood setting of the requested use.

4.12066. MOBILE HOME PARKS. Mobile home parks are a special exception use subject to the minimum development requirements as follows:

A. LOCATION. C-Commercial District only

B. MINIMUM REQUIREMENTS

Front yard. Seventy-five feet.

Side yard. Thirty-five feet.

Area. Minimum of two acres.

Drives. The entrance road connecting the park streets with a public street shall have a minimum road pavement width of twenty-nine feet, measured back to back of curbs. All interior streets shall be not less than twenty-nine feet in width, measured back to back of curbs. All streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete with an approved curb to provide for drainage. Such streets shall meet the specifications contained in Chapter 12, Section 4.10006 of this Code.

Sanitary facilities. Connection with the municipal sewer system or adequate private sewage disposal facilities.

C. HOME SPACES

Space size. Fifty feet by ninety feet.

Space area. 4,500 square feet.

Off-drive parking. One parking space for each home space.

Front yard. Fifteen feet.

Rear yard. Ten feet.

Side yard. Five feet.

4.12067. TRAVEL TRAILER PARKS

A. LOCATION. C-Commercial Districts Only

B. MINIMUM REQUIREMENTS FOR PARK

Front yard. Same as the zoning district or fifty feet, whichever is greater. This requirement shall apply to any and all roads or streets upon which "park" abuts.

Side yard. Thirty-five feet.

Rear yard. Thirty-five feet.

Minimum area. One and one-half acres.

Maximum density. Twenty unit spaces per gross acre of park site.

Drives. Twenty-five feet in width with asphaltic concrete surface.

A common service building providing laundry facilities, short order, food service, accessory supplies, etc, may be included, provided such a building shall be located within the central "park" area, shall not be visible to passing traffic, and shall be restricted to the use of the park occupants. Such service buildings shall be permitted in the C-Commercial District providing such use shall conform to the requirements provided in the C-Commercial District Regulations. The rear and/or side yards shall be screened from adjacent property access by planting screen not less than ten feet in width, or by a fence wall.

C. REQUIREMENTS FOR TRAILER SPACES

Minimum space size. Twenty feet by fifty-five feet.

Minimum space area. 1,100 square feet

Off-drive parking. One parking space for and within the area of each trailer space.

Minimum front yard. Ten feet.

Minimum rear yard. Five feet.

Minimum side yard. Five feet.

Trailer separation. The minimum distance between any two trailers shall be not less than ten feet.

4.12068 WATER IMPOUNDMENTS AND DRAINAGE AREAS.

All surface ponds, reservoirs, or any areas containing runoff surface water in any zoning district within the City shall meet the following minimum requirements:

A. No public swimming or sunbathing or ice-skating will be allowed unless specific permission is granted to do so by the City.

B. Terrain surrounding any surface water area(s) will be so graded to prevent runoff into any developed areas or into soils with a high permeability rating that may result in high levels of ground water in nearby developed areas.

C. Any discharge of water into the City's underground storm or sanitary sewer system from a private surface water source must be approved by the City on a case-by-case basis.

D. All such uses must meet applicable Federal, State or County Public Health and Safety Standards.

4.12069. REQUIRED CONDITIONS AND PROCEDURES

A. GENERAL CONDITIONS

1. A special exception use permit shall not authorize a use which does not comply with the minimum requirements of the district in which it is located.
2. A special exception use permit shall not authorize a use which is in conflict with this Code or laws of the State of Iowa or the United States regulating nuisance, pollution or hazardous occupation.

B. REQUIRED SITE PLAN AND STATISTICAL INFORMATION

The request for authorization of special exception use shall be accompanied by a site plan in compliance with Section 4.12061 of this Code.

C. RESTRICTIONS And STANDARDS

Authorization for a special exception use permit may be granted subject to the following conditions:

1. Buildings involving the large assemblages of people shall not be located less than 300 feet from any existing dwelling site.
2. Uses within the C-Commercial, TD Transitional and I-Industrial Zoning Districts which emit or create a substantial level of noise, vibration, odor, pollution, etc. and which are within five hundred feet (500') of an R-Residential Zoning District shall disclose these levels and shall include a plan to control and minimize any detrimental effects such levels may have upon adjoining property.
3. Uses involving the large assemblages of people shall not be located where the arterial traffic system is inadequate to provide for the increased traffic density.
4. Uses involving the extensive use of exterior lighting shall not be located where such lighting may be hazardous to air or ground traffic and such uses shall not be located less than a distance required to reduce the light intensity to normal residential street lighting intensity at any R-Residential District boundary.

5. Public or private utility services which involve large structures such as pumping stations, electric substations and power transmitters and which are located within an R- Residential or C-Commercial District shall be screened from public view by buffer walls or strip parks.
6. That the establishment, maintenance, or operation of the use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
7. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
8. That the establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
9. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed in the immediate neighborhood or with the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood;
10. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
11. 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;
12. That the proposed use is not contrary to the objectives of any duly adopted comprehensive plan for the City of Winterset; and,
13. In the case of the uses enumerated in the following subparagraphs (I) and ii), that there be a minimum distance of 500 feet between such use and all places of human habitation, public assembly or business not associated with such use and that such use not be so located that prevailing winds would carry any fumes, odors or gasses from such use toward developed properties or into the city:

(i) Bulk storage of any flammable or explosive substance, including but not limited to liquid petroleum, gasoline, fuel oil, dynamite, and fireworks. For purposes of this subparagraph, "bulk storage" means storage for other than retail or on-premises sales.

(ii) Storage, blending, mixing or on-premises sales of toxic substances, whether or not under pressure, for commercial or agricultural purposes, including but not limited to anhydrous ammonia, fertilizer, pesticide, and herbicide.

D. PROCEDURE. The procedure for obtaining a special exception use permit shall be as follows:

1. Written applications shall be filed with the Zoning Administrator and shall be accompanied by such plans as required by this Code. The application shall include a list showing the names and last known addresses for all property owners of record within five hundred feet of the premises where the special use is to be located.
2. The application shall be referred to the Board of Adjustment and the Board shall hold a public hearing within thirty (30) days of receiving the application. The Board or Zoning Administrator may refer the application to the Planning Commission if in the judgment of the Board or Zoning Administrator there are sufficient planning issues justifying their input and recommendation.
3. The Board of Adjustment shall make a written report of its decision on the application within forty-five (45) days of the public hearing.
4. Notice of the public hearing by the Board shall be given to all property owners within 500 feet of the boundary of the property on which the special use is to be located. Such notice shall be at least ten days prior to the hearing; shall contain the time and location of such hearing; and, shall be served by ordinary mail to the owner's last known address submitted by the applicant.

5. If a special exception use permit is issued it is subject to the addition of conditions which may include time limits and other terms deemed necessary or appropriate by the Board. Violations of such terms shall be deemed a violation of this Code punishable as herein provided. In addition, the Board may upon notice and hearing revoke the permit for violation of the terms of the permit.
6. Whenever an application for special exception use permit has been denied by the Board, no reapplication for the same special use on the same property or any portion thereof shall be filed or considered by the Board until six months shall have elapsed from the date of the official denial of the first application.
7. Before an Application for Special Use Permit may be considered by the City, the Applicant shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

OFF-STREET PARKING AND LOADING AREAS

4.12070. OFF-STREET LOADING SPACE REQUIRED.

A. In any district in connection with every building or part thereof hereafter erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by uses requiring the receipt or distribution of materials or merchandise involving uses such as manufacturing, storage, warehouse, good display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, there shall be provided and maintained on the same lot with building, at least one off-street loading space; and, one additional such loading space for each 20,000 square feet or fraction thereof in excess of 10,000 square feet.

B. The requirements for off-street loading spaces are as follows:

1. Each loading space shall be not less than ten feet in width and sixty feet in length.
2. Such space may occupy all or any part of any required yard or court space, except required open space under Section 4.12072 of this Code.

4.12071. OFF-STREET PARKING AREA REQUIRED.

A. In all districts, space for parking and storage of vehicles shall be provided in accordance with the following schedule; however, no parking area required hereunder shall be less than 1,000 square feet in area except in the case of dwellings and retail stores and shops under 500 square feet.

1. Automobile sales and service garages - one parking space for each 300 square feet of floor area and one parking space for each four persons regularly employed on the premises.
2. Banks, business and professional offices - one parking space for each 200 square feet of floor area and one parking space for each office in the principal building or one and one-fourth parking spaces for each person regularly employed on the premises, whichever is greater.
3. Bowling alley - five spaces for each alley and one space for each five-spectator seats.
4. Churches - one parking space for each four seats and one parking space for each classroom.
5. Dance halls, assembly halls - one parking space for each 100 square feet of floor area or one parking space for each four seats of maximum seating capacity, whichever is greater.
6. Dwellings, residential:
  - a. One and Two-family Dwellings - two parking spaces for each dwelling unit.
  - b. Multi-family Dwellings - two parking spaces for each of the first twelve dwellings units and one and one-half parking spaces for each additional unit. One garage parking space for each dwelling unit may be counted as a portion of the parking requirement.
7. Funeral homes, mortuaries - fifteen parking spaces or one parking space for each four seats in the principal auditorium or four parking spaces for each service or viewing room, whichever is greater. In addition, one parking space for each two persons regularly employed on the premises.
8. Furniture, appliance and other retail stores displaying large and

bulky merchandise - one parking space for each 400 square feet of floor area.

9. Hospitals, sanitariums and nursing homes - one parking space for each four patient beds and one parking space for each two persons regularly employed on the premises.
10. Hotels, motels, lodging houses - one parking space for each room or suite of rooms offered for tourist accommodations and one parking space for each two persons regularly employed on the premises.
11. Industrial or manufacturing plants - one parking space for each employee on the maximum working shift; or one parking space for each 1,000 square feet of floor area up to 10,000 square feet; and, then one parking space for each additional 1,500 square feet, or portion thereof.
12. Restaurants, taverns, night clubs or similar places dispensing food, drink or refreshments - one parking space for each fifty square feet of floor area devoted to patron use within the establishment. In addition, one parking space must be provided for each four persons regularly employed.
13. Retail stores, supermarkets, shopping centers, department stores, etc.
  - a. Stores containing over 2,000 square feet floor area - one parking space for each 175 feet of color area.
  - b. Stores and shops containing under 2,000 square feet - one parking space for each 500 square feet of floor area, and one space for each persons regularly employed on the premises; provided, however, there shall not be less than five parking spaces.
14. Schools and other places of education or instruction.
  - a. Elementary, junior high and other places for under driving age students - one parking space for each person regularly employed on the premises. In addition, one parking space for each twenty student desks or classroom seating facilities.
  - b. High schools - one parking space for each person regularly employed on the premises. In addition, one parking space for each ten student desks or classroom seating facilities.
  - c. Colleges, trade schools and other places of young adult

learning - one parking space for each person regularly employed on the premises. In addition, one parking space for each three student desks or classroom seating facilities.

15. Sports arenas, theaters, auditoriums and other similar places of public assembly - one parking space for each four persons of maximum standing and seating capacity.

16. Wholesale establishments or warehouses - one space for each person regularly employed on the premises.

B. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is mentioned and to which said use is similar shall apply.

C. All lots with off-street parking shall abut upon street right of way except as may be provided by Section 4.12013 of this Code.

D. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

1. No part of any off-street parking space shall be closer than five feet to any established street right-of-way or alley line. Where this parking lot adjoins an R-Residential District, it shall be set back at least ten feet from the R-Residential District boundary.
2. Any off-street parking area, including any commercial parking lot for more than two vehicles shall be surfaced with an asphaltic or Portland cement pavement or such other surface as shall be approved by the City Engineer so as to provide a durable and dustless surface; shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.
3. Lighting used to illuminate any off-street parking area including any commercial parking lot shall be so arranged as to reflect the light away from adjoining premises in any R-Residential District.
4. A landscaping plan ensuring compatibility with surrounding

and adjoining uses shall be submitted to the Board for approval for any parking area with a gross capacity of fifty (50) motor vehicles or more. The applicant shall be responsible for the implementation of the plan in accordance with the timetable submitted.

E. Off-street facilities for all uses, except one and two-family dwellings fronting on a residential street, shall be designed so as to permit entrance and exit by forward movement of the vehicle. The backing or backward movement of vehicles from an off-street parking facilities on to streets shall be strictly prohibited.

OPEN SPACE REQUIREMENTS

4.12072. INTENT. It is recognized that the extensive use and congestion of land adversely affects the general health and welfare of the community. Therefore, the intent of the following Section shall be to ensure the creation and maintenance of adequate open spaces.

4.12073. OPEN SPACE REQUIREMENTS.

A. All buildings and land use in any R-Residential District or TD-Transition District shall comply with the following:

1. On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area. Said open space shall not include any structure or off-street parking area.
2. Each principal structure of a multi-family dwelling unit shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.
3. Where doors and windows in the exterior walls of a living unit face a wall of the same building and/or wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet. Said distance to be measured on a line projected at right angles at the opening from the wall containing the opening to the opposite wall.
4. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court only) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

B. All buildings and land use in any C-Commercial District or I-Industrial District shall comply with the following except as herein provided:

1. Any R-Residential District use in any C-Commercial District shall comply with Part A above.

2. On each lot there shall be provided an open space equal to at least twenty per cent of the total lot area; said space shall not include any structure or off-street parking area.
3. Each principal structure of an building complex shall be separated from any other principal structure in the complex by an open space of not less than sixteen feet in width.
4. Where door and windows in the exterior walls of a living unit face a wall of the same building and/or a wall of another building in the same complex site, there shall be provided a minimum open space of not less than thirty feet. Said distance to be measured on a line project at right angles at the opening, from the wall containing the opening of the opposite wall.
5. Cantilevers and open porches may project from the building wall into the required open space (court only) not more than four feet; open stairways may project from the building wall into the required open space (court only) not more than seven and one-half feet. Stairways when located in the required open space (court only) shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

SITE PLANS

4.12074. SITE PLANS. Site plans which are required for review and approval for any use in any district or elsewhere by this Chapter, and shall comply with the following:

1. Site plans shall be drawn at a scale not less than 1" = 100'; and, two copies of the site plan shall be submitted with any application for rezoning or permit application.
2. The site plan shall include, but not be limited to, the types of structure proposed, number and size of dwelling units, floor area of any commercial or industrial building, child capacity of a day nursery, buffers, landscaping, off-street parking area, walls, density, floor area ratio, anticipated expansion and other information deemed necessary to illustrate compliance with the requirements of this Chapter.
3. A preliminary site plan may be submitted for preliminary or tentative land use approval; providing however, that a final site plan shall be submitted and reviewed for compliance with the provisions of this Chapter prior to the issuance of any zoning change or permit.
4. The site plan shall show the size and dimensions in feet of the lot where the proposed structure is to be located.
5. The site plan shall include a legal description of the lot or tract of land where the proposed structure is to be located.
6. The site plan shall include the location of all utilities located upon or under the land surface and a plan for surface water drainage. The location, size and availability of municipal utilities shall be provided.

4.12075. LOT BOUNDARIES LOCATED. Prior to the issuance of any permit, the applicant shall establish at the site the actual location of the boundaries of the lot where the proposed structure is to be located. In the event the applicant cannot show the lot boundaries by the location of original monuments or corner pins established by a land survey of record, then the applicant shall cause the lot to be surveyed by a registered land surveyor prior to the issuance of any permit.

EXCEPTIONS, MODIFICATIONS, INTERPRETATIONS

4.12076. STRUCTURES PERMITTED ABOVE HEIGHT LIMIT. The building height limitations of this Chapter shall be modified as follows:

1. Chimneys, cooling towers, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height approved by the Board of Adjustment.
2. Public service buildings, hospitals, or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line, in addition to the minimum yard requirements, at least one foot requirements for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.

4.12077. DOUBLE FRONTAGE LOTS. Buildings on double frontage lots extending through from street to street shall be permitted ingress-egress from only one of the streets.

4.12078. OTHER EXCEPTIONS TO YARD REQUIREMENTS. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for roof projections and awnings not to exceed thirty-six inches.

4.12079. UNCONVERTED MOBILE HOMES. Mobile homes, which have not been converted to real estate as provided by Iowa Code Chapter 135D shall be located in mobile home parks only.

OUTDOOR ADVERTISING SIGNS

4.12080 PURPOSE. It is the purpose of this chapter to:

- A. Establish comprehensive guidelines and standards specifically designed to govern the usage, placement, and overall impact of advertising signs, ensuring they serve their intended purpose of promoting products, services, or businesses while maintaining the aesthetic and safety standards of the community; and
- B. Set standards and provide uniform controls that permit a reasonable use of signs that are compatible with their surroundings; and

- C. Prohibit the erection of signs in such numbers, sizes, designs, illumination and locations that may create a hazard to pedestrians, bicyclists and motorists; and
- D. Avoid excessive signage and visual competition, so that legal signs provide adequate avenues of free speech and communication, while minimizing clutter, unsightliness, confusion and blighting influences; and
- E. Ensure that sign design builds on the image, character and visual environment that the City of Winterset seeks to promote and protects property values; and
- F. Protect and prevent possible damage or obstruction to public utilities and infrastructure.

**4.12081 DEFINITIONS**

ABANDONED SIGN: Any sign remaining in place for a period of ninety (90) days or more which no longer advertises, identifies, promotes or draws attention to an activity, business, product, or service available on the premises on which the sign is located.

ADVERTISING SIGN: a visual, written, or electronic communication that is used to promote a product, service, or business and influence potential customers' buying decisions.

BILLBOARD: An off-premises sign that identifies or communicates a message or information related to an activity conducted, a service rendered, or a commodity available at a location other than where the sign is located.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING FRONTAGE: That wall or side of a building which is adjacent and most nearly parallel to a street.

CANOPY: A rigid, multifaced, permanent structural roof-like element that projects from a building wall for the purpose of shielding a doorway or window.

DIRECTIONAL SIGN: a sign, other than warning and regulatory signs, which is located on private property for the purpose of controlling all modes of traffic. Signs shall not display company names, logos, or any other form of advertisement, except where allowed elsewhere in this chapter.

ERECT: To build, construct, attach, hang, place, suspend or affix. Shall also include the painting of wall graphics.

ELECTRONIC DISPLAY SIGN: Any portion of a sign upon which alphabetic, pictographic or symbolic information content can be changed or altered on a display screen composed of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices, including but not limited to programmable microprocessor controlled electronic displays; and, the projection of images or messages with these characteristics by any other means onto the sign face.

FREESTANDING STRUCTURE SIGN: Any sign that is not attached to a building, but rather is attached to a canopy, or similar open-air, overhead structure, such as a gasoline canopy, or a freestanding structure, such as a kiosk, or ATM.

GOVERNMENT FLAG: Any fabric, banner or bunting containing words, numbers, colors, patterns or symbols, used as a symbol of a government or political subdivision, including flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and other flags adopted or sanctioned by an elected legislative body of competent jurisdiction.

GRAPHIC: Any display, including copy, logos or images that are an announcement, declaration, demonstration, illustration or insignia used to advertise, promote, or draw attention to the interests of any person or firm when the same is placed in view of the general public.

GROUND SIGN: A sign supported by one (1) or more uprights, posts or bases placed upon or affixed in the ground and not attached to any part of a building.

ILLUMINATION: A source of any artificial or reflected light, either directly from a source of light incorporated in or indirectly from an artificial source.

LEGAL NONCONFORMING SIGN: Any sign which does not conform to the requirements of this chapter, but which was lawfully erected in accordance with this Code in effect at the time it was erected.

MARQUEE: A permanent covering, other than a building canopy or roof that projects from the façade of the building and is typically used to highlight the entrance to the building. Marquees are often ornate and incorporate lighting and signage to attract attention and identify activities associated with the business, such as theaters, convention centers, concert halls or hotels.

MONUMENT SIGN: A monument sign is an on-premises free-standing sign with the appearance of a solid base.

MULTI-VISION DISPLAY SIGN: Any portion of a sign where the display surface is comprised of rotating elements that permit the display of different messages by the rotation of elements.

OFF PREMISES SIGN: Any sign, for which the purpose is to advertise, identify and/or direct attention to a profession, business, service, activity, product, campaign, or attraction which is not carried on, sold, offered or manufactured in or upon the premises.

ON PREMISES SIGN: A sign that advertises, identifies and/or directs attention to a profession, business, service, activity, product, campaign or attraction which is carried on, sold, offered or manufactured in or upon the premises.

PANEL SIGN: A separate advertising area contained upon a sign facing, including any border or trim, but excluding ornamental base or apron supports; provided however, that such ornamental base or apron supports shall not contain an advertising message or messages.

PERMANENT SIGN: A sign constructed of durable materials and attached to a wall or imbedded in or constructed on a foundation in the ground, that does not allow removal without special tools or equipment, and which is intended to exist on more than a temporary basis.

POLE SIGN: A sign that is supported by one or more uprights or braces in or upon the ground.

PORTABLE SIGN: A freestanding sign that is movable and self-supporting and is not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

Premises: The lot or lots, plots, portions, or parcels of land considered as a unit for a single use or development, whether owned or leased, and not located in a shopping center or multi-use building.

PROJECTING SIGN: A sign attached to and projecting away from the wall of a building and not in the same plane as the wall.

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, trail, pedestrian way, public (and private) utilities and/or other public uses.

ROOF SIGN: an advertising device that entirely or partially projects above the fascia of a building and is supported wholly or in part of the roof structure

SIGN: Any visual display or graphics, visible from a street or in view of the general public and designed to identify, announce, direct, draw attention, promote or inform.

SIGN AREA also known as SIGN SURFACE AREA: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

SIGN HEIGHT: The vertical measurement from the average finished grade nearest the supporting base or columns of the sign to the highest point of said sign. No mounding of earth (except berms required otherwise by this Code for buffering) may be permitted to achieve a greater sign height.

TEMPORARY SIGN: Any sign, banner, pennant, streamers, valance or advertising display constructed of cloth, canvass, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only with a printed end date.

VISION CLEARANCE: That area bounded by the street right-of-way lines of a corner lot and a straight-line joining point on said right-of-way lines twenty-five feet from the point of intersection of said right-of-way lines.

WALL SIGN: Any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of such wall.

**4.12082 SIGN REGULATIONS**

- A. PERMIT REQUIRED. Unless specifically noted otherwise in this chapter, it shall be unlawful for any person to erect, alter or relocate within the City without first obtaining a sign permit from City Hall and making payment of the permit fee. No sign shall be erected on a property without the authorization of the property owner or authorized agent. Application for permits shall be made upon forms provided by City Hall. Additional information may be required to clarify the submittal including, but not limited to, the following information:
  1. Drawings of the plans and specifications of the sign and method of construction and attachment to the building or in the ground.
  2. Drawing showing the location of the sign or sign structure, setbacks, location of the sign on a building, and any other information needed to determine compliance with Code provisions.
  3. Copy of stress sheets and calculations showing the sign is designed for dead load and wind pressure in any direction in accordance with Building Code regulations as adopted by the City of Winterset.
  4. Such other information as the Building Inspector or designee shall require to show full compliance with this and all other laws and ordinances of the City.
- B. PERMIT FEES. Every applicant, before being granted a permit hereunder, shall pay the permit fee, as determined by City Council resolution, for each such sign. Failure to obtain a valid permit prior to the installation of a sign, may cause the fee to be doubled, require the removal of the sign, or any other enforcement remedies available to the City.
- C. REVOCATION OF PERMIT. The City Administrator or designee is hereby authorized and empowered to revoke any permits issued upon failure of the holder thereof to comply with any provisions of this chapter or conditions of approval included with the issuance of said permit.
- D. PROHIBITED SIGNS. The following signs are prohibited:
  1. Animated signs.
  2. Off-premises signs.
  3. Billboards.
  4. Roof signs.
  5. Flashing or moving lights.
  6. Structurally or otherwise unsafe or dilapidated signs.
  7. Portable signs, including signs on wheels, trailers, and truck beds, except as permitted elsewhere in this chapter and section 3.606.
  8. Vehicle signs. No vehicle, including trailers, shall be parked in such a way that it functions primarily as a sign.

It shall be a violation if such vehicle is conspicuously parked in a prominent location for more than three (3) hours and there are no other stated or apparent reasons, other than signage purposes.

9. Abandoned signs.
  10. Signs that obstruct vision, are in the vision clearance on private property or erected at or near the intersection of any streets or near a private access to a street in such a manner as to obstruct free and clear vision unless otherwise permitted in this Chapter.
  11. Signs at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
  12. Signs which make use of the words "STOP", "LOOK", "DANGER" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse the motoring public.
  13. Signs on City property or right of way not installed by agents of the City, except as permitted elsewhere within this chapter.
- E. EXEMPTIONS. The following signs are exempt from the permitting requirements and regulations of this chapter, unless otherwise specified:
1. Signs erected by, or on behalf of, or pursuant to the authorization of a governmental body.
  2. Signs located within buildings, visible from the right of way.
  3. Warning signs, no trespassing, no hunting and similar signs on private property.
  4. Signs for the temporary sale of goods less than six square feet only on days of sale on private property.
  5. Political signs on private property in compliance with Iowa State Code 68A-406.
  6. Directional signs not to exceed six square feet per sign which have no advertising matter.
  7. "Open" or other greeting flags provided that a minimum of five (5) foot width of unobstructed sidewalk is maintained and provided that no such placement unduly restricts the flow of pedestrian or vehicular traffic. (3.606) Such sign shall be displayed only during the hours when the adjacent merchant's business is operating and open to the public (3.414) and shall have no advertising matter.
  8. Signs of a patriotic, religious, charitable, or civic character or signs for institutions of an educational, religious, philanthropic or eleemosynary character,

provided said sign(s) shall be on private property and not contain more than 32 square feet in total.

9. A sign identifying the owner or occupant of a building or dwelling unit, provided such sign is unobtrusive. Such sign shall not be illuminated.
  10. A sign pertaining to the lease or sale of a building or property provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated. Such sign shall be removed upon the beginning of said lease or the conclusion of the sale.
  11. Signs pertaining to the prolonged sale of property which shall be removed upon the conclusion of the sale.
  12. Temporary signs used for a special event with a printed end date. Such signs may be erected 14 days prior to the start of the event and shall be removed at the conclusion of the event.
- F. SIGNS IN RESIDENTIAL ZONING DISTRICTS. Signs may be erected in the Residential Zoning District and are subject to the following provisions and regulations:
1. One identification sign on premises not to exceed twenty-four (24) square feet in surface area displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar use. Such signs may be illuminated.
  2. Business signs as Non-Conforming or Home Occupations shall not be located in the front yard. Signs shall be attached to the house and shall not be illuminated and not larger than two (2) square feet in surface area with an approved Special Exception Use Permit.
  3. A temporary sign not exceeding four (4) square feet in surface area identifying an engineer, architect, general contractor, sub-contractor, or product engaged in or used in the construction of a building may be erected upon issuance of the building permit. A temporary sign shall be removed prior to the occupancy of the building or completion of advertised work. Such sign shall not be illuminated except for signs required by State or Federal law.
  4. Temporary signs relating to construction not to exceed 32 square feet in area on private property and to be removed upon completion of the construction.
- G. SIGNS IN THE DOWNTOWN COMMERCIAL DISTRICT. Signs may be erected in the Downtown Commercial Zoning District and are subject to the following provisions and regulations:
1. The total surface area of all permanent wall signs on a lot shall not exceed ten (10) percent of the building facade per elevation.

2. Signs shall be on premise and limited to one (1) wall sign per business and one (1) pole or monument sign per building.
  - a. Pole signs are limited to 24 feet in height and 48 square feet in area.
    1. If the pole sign is 10 feet in height from grade to the bottom of the sign cabinet, it may be located on the property line so long as no portion of the sign projects into the city right of way or adjoining property.
    2. If the pole sign is less than 10 feet from grade to the bottom of the sign cabinet, it must be located outside the vision clearance requirement.
  - b. Monument signs are limited to 48 square feet in area and must be located outside the vision clearance requirement.
  - c. Pole signs and monument signs may be used for multi-tenant buildings with the total sign area not to exceed 48 square feet.
3. Signs may be illuminated. Where a sign is illuminated, the source of a light shall not be visible from any public right of way, and such light shall be directed away from any Residential District.
4. Directional signs shall be allowed but restricted to four (4) sq. ft. in sign area. No logos or names of businesses shall be permitted on directional signs.
5. Signs within the immediate downtown square shall project no more than one (1) foot perpendicular from the building face. This area contains the following:
  - a. 0-99 Block of E Jefferson Street
  - b. 0-98 Block of E Court Ave.
  - c. 100 Block of N John Wayne Drive (also known as N 1<sup>st</sup> Street)
  - d. 100 Block of N 1<sup>st</sup> Ave.
6. Projecting Signs in the Downtown Commercial District:
  - a. Projecting signs may be allowed in the Downtown Commercial District but limited to the contiguous single block area in each direction adjoining the immediate downtown square. This area contains the following:
    1. 100 Block of W Jefferson Street
    2. 100 Block of E Jefferson Street
    3. 100 Block of W Court Ave
    4. 100 Block of E Court Ave
    5. 100 Block of S John Wayne Drive (also known as S 1<sup>st</sup> Street)
    6. 200 Block of N John Wayne Drive (also known as N

1<sup>st</sup> Street)

7. 100 Block of S 1<sup>st</sup> Ave

8. 200 Block of N 1<sup>st</sup> Ave

b. Such projecting sign shall meet the following requirements:

1. Shall be permanently attached to a wall at a height of no less than eight (8) feet above the public sidewalk or ground.
2. The sign shall be limited to one per façade visible to the public with the exception of second floor businesses.
3. Second floor businesses may have one projecting sign which shall be located immediately over or within three (3) feet of the first-floor pedestrian access to the business. Such a sign shall not exceed ten (10) square feet in area and shall be erected so that the lowest portion of the sign shall not be less than eight (8) feet above the public sidewalk or ground.
4. Shall have a maximum projection of five (5) feet from the wall.
5. Shall not be higher than the top of the second story windows.

H. SIGNS IN COMMERCIAL, INDUSTRIAL AND TRANSITION DISTRICTS. Signs may be erected in the Commercial and Transitional Districts and are subject to the following provisions and regulations:

1. The total surface area of all permanent wall signs on a lot shall in the Commercial District and Transition Districts not exceed ten (10) percent of the building facade per elevation.
2. The total sign area of all permanent wall signs on a lot in the Industrial District shall not exceed twenty (20) percent of the building facade per elevation.
3. Signs shall be on premise and limited to one (1) wall sign per business and one (1) pole or monument sign per building.
  - a. Pole signs are limited to 24 feet in height and 48 square feet in area.
    1. If the pole sign is 10 feet in height from grade to the bottom of the sign cabinet, it may be located on the property line so long as no portion of the sign projects into the city right of way or adjoining property.
    2. If the pole sign is less than 10 feet from grade to the bottom of the sign cabinet, it must be located outside the vision clearance requirement.
  - b. Monument signs are limited to 48 square feet in area

- and must be located outside the vision clearance requirement.
- c. Pole signs and monument signs may be used for multi-tenant buildings with the total sign area not to exceed 48 square feet.
  - 4. Signs may be illuminated. Where a sign is illuminated, the source of a light shall not be visible from any public right of way, and such light shall be directed away from any Residential District.
  - 5. Directional signs shall be allowed but restricted to four (4) sq. ft. in sign area. No logos or names of businesses shall be permitted on directional signs.
  - 6. Freestanding Structure Signs shall be allowed subject to the following regulations:
    - a. If the freestanding structure is associated with a principal use in a building on the same site, any signage on the structure shall be counted towards the wall sign area earned by the building frontage of the principal use.
    - b. If the freestanding structure is the principal use, the maximum amount of signage per structure face shall be no greater than five percent (5%) of the structure face.
    - c. A panel sign is allowed as a freestanding structure sign but shall be designed in such a manner that only the text, copy or graphic content of the sign is illuminated, and the background of the sign face is opaque.
  - 7. Electronic Message Boards: Any sign utilizing an electronic display or multi-vision display must meet the following operational standards:
    - a. Sign Size. Limited to 24 square feet in area.
    - b. Duration. The display area and each portion thereof between any change in the message displayed must be static for at least 5 seconds.
    - c. Transition. The change between static messages must be instantaneous.
    - d. Brightness. No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any street, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle. In no event may such a sign exceed a maximum illumination of 5,000 candelas per square

meter during daylight hours and a maximum illumination of 500 candelas per square meter between dusk to dawn as measured from the sign's face at maximum brightness.

e. Dimmer control. Electronic display signs must have an automatic dimmer control to automatically reduce the illumination at night and during times of reduced ambient light.

f. Separation from Residential. No such sign shall be permitted within 100 feet of (i) any lot in any Residential district or Transition District which either is used for residential purposes or is vacant, or (ii) any portion of a PUD district devoted to single- or two-family use.

8. Residential uses in Transition Districts are subject to the provisions of 4.12082.F.

9. Business uses in Transition Districts are subject to the provisions of 4.12082.H.

I. NONCONFORMING SIGNS. Where a sign 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, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such sign may be enlarged or altered in a way that increases its nonconformity; however, reasonable repairs and alterations may be permitted.

2. Should such sign be destroyed or altered by any means to an extent of fifty (50) percent or more of its replacement cost at time of destruction/alteration, it shall not be reconstructed or altered except in conformity with the provisions of this ordinance.

J. ENFORCEMENT. Any violation of the provisions of this Chapter or failure to comply with any of its requirements shall be a municipal infraction punishable as provided by law. Each day any such violation continues shall be considered a separate offense and may be the subject of separate prosecutions, if so continued. The owner or tenant of any building, structure or premises or part thereof, and any builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided for herein. Nothing herein contained shall preclude the City from taking such other lawful action as is necessary to prevent or remedy any violation of the terms of this Chapter.

ADMINISTRATION AND ENFORCEMENT BUILDING PERMITS  
AND CERTIFICATES OF OCCUPANCY

4.12083. ADMINISTRATIONS AND ENFORCEMENT. The provisions of this Chapter shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Chapter to insure compliance with or to prevent violation of its provisions.

4.12084. BUILDING PERMITS REQUIRED. Buildings or other structures shall not be erected, added to or structurally altered without a permit issued by the Zoning Administrator. Building permits shall be issued in conformance with the provisions of this Chapter, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit is issued is not commenced within six months from date of issuance and completed within twelve months from the date of issuance. In the instance of a structure or building removed or demolished, all work must be completed within three months from the date the permit is issued.

4.12085. APPLICATION FOR BUILDING PERMIT. All applications for building permits shall be accompanied by a site plan in conformance with Section 4.12061 of this Chapter. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.

4.12086. CERTIFICATES OF OCCUPANCY FOR NEW, ALTERED OR NON-CONFORMING USES. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or part thereof, which has been erected, changed, converted, altered or enlarged in its use or structure until a certificate of occupancy has been issued by the Zoning Administrator.

Certificates of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued after the completion of the lawful erection or alteration of the building or other improvements.

A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

The Zoning Administrator shall maintain a record of all certificates of occupancy and copies shall be furnished upon request to any person. Failure to obtain a certificate of occupancy shall be a violation of this Chapter and punishable as provided by this Chapter.

4.12087. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING OCCUPANCY. Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or construction set forth in such approved plans and specifications, and no other use or construction. Use or construction at variance with that authorized by Zoning Administrator shall be deemed a violation of this Chapter and punishable as provided by this Chapter.

BOARD OF ADJUSTMENT PROCEDURE, POWERS AND DUTIES

4.12088. BOARD CREATED. A Board of Adjustment is hereby established which shall consist of five (5) members. The term of office of the members of the Board and the manner of their appointment shall be as provided by Chapter 414 of the Code of Iowa. Each member of the Board shall be compensated for meeting attendance at a rate to be fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.12089. MEETINGS, GENERAL PROCEDURES AND RULES. Meetings, general board procedures, and rules of the Board shall be in conformance with and pursuant to Chapter 414 of the Code of Iowa as that Chapter now or hereafter provides.

4.12090. APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, or board of the City of Winterset affected by any decision of the Zoning Administrator. Such appeal shall be taken with ten days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal shall have been filed with the Zoning Administrator that by reasons of facts stated in the certificate a stay would in the Administrator's 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 the Board or by a court of record on application on notice to the Zoning Administrator and on due cause known.

4.12091. FEE FOR APPEAL. Before an appeal to the Board of Adjustment may be considered by the City, the Appellant shall pay the City a fee in a sum of money fixed by Resolution of the City Council from time to time and shall not need to be fixed by City Ordinance.

4.12092. HEARINGS, NOTICE. The Board shall fix a reasonable time for the hearing on the appeal, comply with Chapter 21 of the Code of Iowa and provide notice to the appellant at least twenty-four hours prior to the meeting. At the hearing any party may appear in person or by agent or by attorney.

4.12093. JURISDICTION AND POWERS OF THE BOARD OF ADJUSTMENT.

A. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter or any supplement or amendment.
2. To hear and decide special use exceptions to the terms of this Chapter upon which the Board is required to pass under this Chapter.

3. To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Chapter will result in practical difficulty and unnecessary hardship to the applicant so that the spirit of the Chapter shall be observed and substantial justice done.

B. No variance from the provisions of this Chapter shall be made by the Board unless a written application for a variance is submitted demonstrating:

1. 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;
2. That literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter;
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures or buildings in the same district.

C. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter, shall not be in conflict with the comprehensive Plan, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

D. In granting any variance or other relief, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance or relief is granted, shall be deemed a violation of this Chapter and punishable as provided by this Chapter.

E. Use variances prohibited: Under no circumstances, shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

4.12094. DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board may so long as such action is in conformity with the terms of this Chapter, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement or determination as ought to be made and to that end shall have powers of the Zoning Administrator 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 Zoning Administrator or to decide in favor of this applicant on any matter upon which it is required to pass under this Chapter or to effect any variation in the application of this Chapter.

4.12095. APPEALS FROM DECISION OF THE BOARD OF ADJUSTMENT. Any taxpayer or any officer, department, or board of the City or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF  
ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL

4.12096. DUTIES OF ADMINISTRATIVE OFFICER, BOARD OF ADJUSTMENT, COUNCIL AND COURTS ON MATTERS OF APPEAL. It is the intent of this Chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.

It is further the intent of this Chapter that the duties of the Council in connection with this Chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Chapter. Under this Chapter, the Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Chapter as provided by law.

CHANGES AND AMENDMENTS  
MAP REPLACEMENT AND ZONING OF ANNEXED AREAS

4.12097. CHANGES AND AMENDMENTS. These zoning regulations may be amended only by duly adopted ordinance. The change shall be made by petition initiated either by the Council or by any other interested person. Upon filing with the Zoning Administrator, the petition shall be referred to the Planning and Zoning Commission.

Unless initiated by the City, each petition for amendment shall be accompanied by a fee in the amount of \$25. The fee is nonrefundable.

Petitions to change the zoning of property 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. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

5. A plat showing the 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.

6. Other information as is required by site plans specified in Section 4.12074 if specific property uses are known at the time a petition for change is submitted.

The Planning and Zoning Commission shall make a report to the Council within thirty days from the date of the receipt of such petition. The Council, after receiving the report of the Commission, shall hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in Section 362.3 of the Code of Iowa except that at least seven (7) days' notice of the time and place of hearing shall be given by publication in a newspaper of general circulation within the City. In the case of a change in the zoning classification of property, notice of the hearing shall be mailed to the owners of property located within two hundred (200) feet thereof at least seven (7) days prior to the date of the hearing. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

The Council may impose conditions or restrictions on the property owner as provided by Section 414.5 of the Code of Iowa. After holding the public hearing the Council may vote upon the proposed amendment, supplement or change. In case of a written protest against any proposed amendment or change filed with the Zoning Administrator and signed by the owners of twenty per cent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing.

TITLE IV Chapter 12 ZONING

4.12098. MAP REPLACEMENT. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, or requires updating because of annexation or changes in zoning districts, the Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Administrator under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. \_\_\_\_\_ of the City of Winterset, Iowa".

4.12099. ZONING OF ANNEXED AREAS. Any land annexed to the City after the effective date of this Chapter may assign an intended zoning district, if known, to the area until the Council has by ordinance established such zoning district for the property. If a final or planned zoning district is not known or agreed to at the time of annexation, then any annexed land shall be zoned A-Agricultural until the Plan Commission shall have studied the area and adopted a final zoning plan for the area in accordance with this chapter and the Council has by ordinance established a different zoning district.

COMPLAINTS REGARDING VIOLATIONS

4.12100. COMPLAINTS REGARDING VIOLATIONS. When a violation of this Chapter occurs or is alleged to have occurred, any aggrieved person may file with the Zoning Administrator a written complaint stating fully the causes and basis of the Complaint. The Zoning Administrator shall promptly investigate the matter and initiate such action, if deemed necessary, as may be authorized by this Chapter. This section shall not be construed to restrict the authority of the Zoning Administrator to apply or enforce the provisions of this Chapter.

ENFORCEMENT, VIOLATIONS AND PENALTIES

4.12101. ENFORCEMENT. The Zoning Administrator is hereby charged with the responsibility for the enforcement of this Chapter. Any permit issued under this Chapter found to be in violation of the terms of this Chapter shall be null and void from its inception.

4.12102. PENALTIES FOR VIOLATION. Violation of the provisions of this Chapter or failure to comply with any of its requirements shall be a municipal infraction punishable as provided by law. In addition, any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction be guilty of a simple misdemeanor punishable as provided by law. Each day any such violation continues shall be considered a separate offense and may be the subject of repeated prosecutions, if so continued.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

TITLE IV Chapter 12 ZONING

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4.1301	PREAMBLE
4.1302	TITLE
4.1303	DEFINITIONS
4.1304	AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS
4.1305	USE RESTRICTIONS
4.1306	LIGHTING
4.1307	VARIANCES
4.1308	ENFORCEMENT
4.1309	BOARD OF ADJUSTMENT
4.1310	APPEALS
4.1311	JUDICIAL REVIEW
4.1312	PENALTIES
4.1313	CONFLICTING REGULATIONS

4.1301 PREAMBLE. This Chapter is adopted pursuant to the authority conferred by Chapter 329 and 414 of the Code of Iowa. It is hereby found that an airport hazard endangers the lives and property of users of the Winterset Airport and of occupants of land or to property in its vicinity, and also, if of obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Winterset Airport and the public investment therein. Accordingly, it is declared:

(1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the area served by the Winterset Airport;

(2) that it is necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards be prevented; and

(3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which municipalities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

4.1302 TITLE. This Chapter shall be known and may be cited as "The Winterset Airport Height Zoning Ordinance".

4.1303 DEFINITIONS. As used in this Chapter unless the context otherwise requires:

AIRPORT - the Winterset 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 1,115 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 or permanently raises the published or planned approach minimums at any airport or is otherwise hazardous to such landing or takeoff of aircraft.

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.

FFA - The Federal Aviation Administration

NON-PRECISION INSTRUMENT RUNWAY - a runway having an existing or planned instrument approach procedure in which no electronic glideslope is provided, or utilizes air navigation facilities with only lateral guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length that is either existing or indicated on a FAA approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

STRUCTURE - an object, including a mobile object, constructed, or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures with no straight in instrument approach procedures and no instrument designation indicated on a FAA approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

4.1304. AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this Chapter there are hereby created and established certain zones which are depicted on the Winterset Airport Height Zoning Map. 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. Horizontal Zone- The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of existing and future planned runway and connecting the adjacent arcs by lines tangent to these arcs. The horizontal zone does not include the approach and transitional zones.

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Winterset Airport Zoning Map.

B. Conical Zone-The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Winterset Airport Height Zoning Map.

C. 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. (NOTE: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

- (1) Runway 14-32
  - a. The inner edge of the Approach Surface is 500 feet wide for Runway 14-32.
  - b. The outer edge of the approach is 2,000 feet for Runway 14-32.

c. The Approach Zone extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 for Runway (s) 14-32.

(2) Runway 18-36 (future planned runway)  
a. The inner edge of the Approach Surface is 1,000 feet wide for Runway 18-36.

b. The outer edge of the approach zone is 4,000 feet for Runway 18-36.

c. The Approach Zone extends for a horizontal distance of 10,000 feet at a slope of 34 to 1 for Runway 18-36

No structure shall exceed the approach surface to any runway, as depicted on the Winterset Airport Height Zoning Map.

D. Transitional Zone - The land under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the Approach Surfaces.

No structure shall exceed the Transitional Surface, as depicted on the Winterset Airport Height Zoning Map.

E. Primary Zone - The Primary Zone is an area that is longitudinally centered on a runway. When the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed below, which is in accordance with Part 77 of the Federal Aviation Regulations (FAR) for the 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.

- a. Runway 14-32 - The width of the primary zone is 500 feet.
- b. Runway 18-36 - The width of the primary zone is 1,000 feet.

4.1305. USE RESTRICTIONS. Notwithstanding any other provisions of Section 4.1304, no use may be made of land or water within any zone 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 manner that it is not misleading or dangerous to aircraft operating from the Winterset 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 useable runway of the Winterset Airport.
- C. No operations from any use in the City shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.
- D. No operations from any use shall otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

4.1306. LIGHTING

A. NOTWITHSTANDING the provisions of Section 4.1304, the owner of any structure over 199 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1M and amendments. Additionally, any structure, constructed after the effective date of this Ordinance and exceeding 699 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1M 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 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.

4.1307 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 Chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Winterset Airport Authority or Director of Aeronautics for his opinion as to the aeronautical effects of such a variance. If the Winterset Airport Authority or the Aeronautics Director 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.

4.1308. ENFORCEMENT. It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be submitted to the Zoning Administrator. Applications for action by the Board of Adjustment shall be transmitted through the Zoning Administrator.

4.1309. BOARD OF ADJUSTMENT. There is hereby created a Board of Adjustment to have and exercise the following powers:

- A. To hear and decide appeals from any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this ordinance.
- B. To hear and decide special exceptions to the terms of this Chapter upon which such Board of Adjustment under such regulations may be required to pass.
- C. To hear and decide specific variances.

The Board of Adjustment shall consist of the Members of the Zoning from the Board of Adjustment.

The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Administrative Officer or to decide in favor of the applicant or any matter upon which it is required to pass under this Chapter or to effect any variation in this Chapter.

4.1310. APPEALS.

- A. Any person aggrieved, or any taxpayer affected, by any decision of the Administrative Officer made in his administration of this Chapter, may appeal to the Board of Adjustment.
- B. All appeals hereunder must be taken within a reasonable

time as provided by the rules of the Board of Adjustment, by filing with the Administrative Officer a written notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrative Officer certified to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the 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 except by order of the Board of Adjustment on notice to the Administrative Officer and interested parties and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. The Board of Adjustment may, in conformity with the provision of this Chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

4.1311. JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by a decision of the Board of Adjustment may appeal to the Court of Record as provided in Chapter 414.15 of the Code of Iowa.

4.1312. PENALTIES. Each violation of this Chapter or of any regulation, order or ruling promulgated hereunder shall constitute a simple misdemeanor punishable as provided by law. Each day a violation continues to exist shall constitute a separate offense.

4.1313. CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

TITLE IV Chapter 12 ZONING

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- 4.1401 DISCRIMINATORY PRACTICES DEFINED
- 4.1402 EXEMPTIONS
- 4.1403 COMPLAINTS FILED

4.1401. DISCRIMINATORY PRACTICES DEFINED. It shall be unlawful discriminatory housing practice to engage in any of the following acts, if they are based on race, creed, color, age, disability, sex, national origin, religion or ancestry:

1. Refusing to sell or rent to, deal or negotiate with any person.
2. Discriminating in terms, conditions or privileges for buying, renting or transfer of housing.
3. Discriminating by advertising that housing is available only to persons of a certain race, etc.
4. Denying that housing is available for inspection, sale or rent when in fact it is so available.
5. For profit, persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood.
6. Denying or making different rates, terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies.
7. Making a record of or making available for public knowledge in any way a person's race, etc.
8. Denying to anyone the use of or participation in any real estate services, such as brokers' organizations, multiple listing services or other facilities related to the selling or renting of housing.

4.1402. EXEMPTIONS. Nothing in this section, except for discrimination based on race, shall be construed to apply to:

1. The sale or rental of single-family houses owned by a private individual owner of three or fewer such single-family houses provided:
  - a. A broker is not used.
  - b. Discriminatory advertising is not used.
  - c. No more than one house in which the owner was not the most recent resident is sold during any two-year period.
2. Rentals of rooms or units in owner-occupied multi-dwellings for two to four families, if discriminatory advertising is not used.
3. Limiting the sale, rental, or occupancy of dwellings which a Religious organization owns or operates for other than a commercial purpose to persons of the same religion, if membership in that religion is not restricted on account of race, color or national origin.
4. Limiting to its own members the rental or occupancy of lodgings which a private club owns or operates for other than a commercial purpose.

4.1403. COMPLAINTS FILED. In order to insure that the rights of all parties will adequately be protected, the following procedures are available:

1. Any person claiming to be aggrieved by a discriminatory or unfair practice within the city, may, by himself or through his attorney make, sign and file a verified written charge of discriminatory practice with the Equal Opportunity Officer of the City.
2. If the local Equal Opportunity Officer is unable to obtain voluntary compliance, the complainant may also send a notarized complaint to HUD within 180 days of the alleged discriminatory act.

3. A person may also take a complaint directly to the U.S. District Court or State or local court within 180 days of the alleged discriminatory act.

4. Information about possible discrimination in housing may also be brought to the attention of the Attorney General.

TITLE IV Chapter 15 EXCAVATION REQUIREMENTS FOR DEMOLITION OF  
BUILDINGS

4.1501 EXCAVATION REQUIREMENTS  
4.1502 PENALTIES

4.1501. EXCAVATION REQUIREMENTS

(a) Excavation left from wrecked or demolished buildings shall be backfilled with clean dirt or approved back fill materials to the existing grade level. Sewers and water lines and other utility pipes shall be capped or plugged with approved materials and methods and approved by the Building Inspector or his agent before back fillings.

(b) Prior to completion of back fill, all excavations shall be surrounded by flares, lanterns, barricades or fence, to protect the general public, to the satisfaction of the Building Inspector or his agent.

(c) Locations of existing sewer and water lines at the foundation line of the building site shall be platted on 1/4" graph paper, with accurate measurements from two permanent points of reference.

4.1502. PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this Chapter shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

## CHAPTER 14 UNFAIR OR DISCRIMINATORY HOUSING PRACTICES

4.1601	DEFINITIONS
4.1602	STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE
4.1603	GENERAL PROVISIONS
4.1604	ADMINISTRATION
4.1605	ESTABLISHMENT OF ZONING (OVERLAY) DISTRICT
4.1606	STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT
4.1607	APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT
4.1608	NONCONFORMING USES
4.1609	PENALTIES FOR VIOLATION
4.1610	AMENDMENTS

4.1601. DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

APPURTEnant STRUCTURE - A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

BASE FLOOD - The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood").

BASE FLOOD ELEVATION (BFE) - The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

ENCLOSED AREA BELOW LOWEST FLOOR - The floor of the lowest enclosed area in a building when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 4.1606.2.D.1 of this Ordinance, and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
- D. The enclosed area is not a "basement" as defined in this section.

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EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOME - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

FACTORY-BUILT HOME PARK OR SUBDIVISION - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

FIVE HUNDRED (500) YEAR FLOOD - A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

FLOODPLAIN - Any land area susceptible to being inundated by water as a result of a flood.

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**FLOODPLAIN MANAGEMENT** - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

**FLOODPROOFING** - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

**FLOODWAY** - The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

**FLOODWAY FRINGE** - Those portions of the Special Flood Hazard Area outside the floodway.

**HIGHEST ADJACENT GRADE** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - Any structure that is:

- A. *Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;*
- B. *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
- C. *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,*
- D. *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.*

**LOWEST FLOOR** - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

**MAXIMUM DAMAGE POTENTIAL DEVELOPMENT** - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel

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storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

*RECREATIONAL VEHICLE* - A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

SPECIAL FLOOD HAZARD AREA (SFHA) - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,

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addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

**SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations

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adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

### 4.1602. STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

#### 2. Findings of Fact

A. The flood hazard areas of the City of Winterset are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

#### 3. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Winterset and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 4.1602.2.A of this Ordinance with provisions designed to:

A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

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

C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood

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- damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### 4.1603. GENERAL PROVISIONS.

#### 1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Winterset which are located within the boundaries of the Floodplain (Overlay) District as established in 4.1605.

#### 2. Establishment of Official Floodplain Zoning Map

The Flood Insurance Rate Map (FIRM) for Madison County and Incorporated Areas, City of Winterset, Panels 19121C0150D, 19121C0175D, 19121C0231D, 19121C0232D, 19121C0233D, 19121C0234D, 19121C0251D, 19121C0253D, dated 6-21-2017, which were prepared as part of the Flood Insurance Study for Madison County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Madison County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

#### 3. Rules for Interpretation of Floodplain (Overlay) District

The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Administrator or designee shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Administrator or designee in the enforcement or administration of this Ordinance.

#### 4. Compliance

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

#### 5. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances

## TITLE IV Chapter 16 FLOOD PLAIN MANAGEMENT

inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

### 6. Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

### 7. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Winterset or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

### 8. Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

## 4.1604. ADMINISTRATION

### 1. Appointment, Duties and Responsibilities of Local Official

A. The City Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

- 1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
- 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- 3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- 4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or

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- relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- 5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
  - 6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
  - 7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
  - 8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.
  - 9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
    - a. Development placed within the floodway results in any of the following:
      - (i) An increase in the Base Flood Elevations, or
      - (ii) Alteration to the floodway boundary
    - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
    - c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

- 10) Perform site inspections to ensure compliance with the standards of this Ordinance.
  - 11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.
2. Floodplain Development Permit
- A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.
  - B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

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- 1) Description of the work to be covered by the permit for which application is to be made.
  - 2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - 3) Location and dimensions of all structures and additions.
  - 4) Indication of the use or occupancy for which the proposed work is intended.
  - 5) Elevation of the base flood.
  - 6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
  - 7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
  - 8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.
- D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

**4.1605. ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS**

The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

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1. Floodplain (Overlay) District - those areas identified as Zone A on the Official Flood Plain Zoning Map  
The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

### 4.1606. STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT

1. Permitted Uses
  - A. All development within the Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Floodplain District.
  - B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.
  - C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:
    - 1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
    - 2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.
2. Performance Standards  
All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.
  - A. All development shall:
    - 1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
    - 2) Use construction methods and practices that will minimize flood damage.

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- 3) Use construction materials and utility equipment that are resistant to flood damage.
- B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.  
All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.
- C. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
- D. All new and substantially improved structures:
  - 1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must

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

- a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

- 2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 3) New and substantially improved structures shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation.
- 4) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-built homes:

- 1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.
- 2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems:

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- 1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - 2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.
  - 3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.
  - 4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
- H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
- I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.
- J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood.

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Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

K. Accessory Structures to Residential Uses

- 1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
  - a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
  - b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.
  - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
  - f. The structure's walls shall include openings that satisfy the provisions of 4.1606.2.D.1 of this Ordinance.
- 2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

- 1) Recreational vehicles are exempt from the requirements of 4.1606.2.E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- 2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use

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- must satisfy requirements of 4.1606.2.E of this Ordinance regarding anchoring and elevation of factory-built homes.
- M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
- N. Maximum Damage Potential Development - All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

### 4.1607. APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT

1. Appointment and Duties of Board of Adjustment - A Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance and shall take any other action which is required of the Board.
2. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.
3. Variance - The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of

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this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

- A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
- B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
- D. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment

- A. Hearings. Upon the filing with the Board of Adjustment of an Appeal or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.
- B. Decisions. The Board shall arrive at a decision on an Appeal or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in 4.1607.4.B.2.

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- 1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other land or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the City.
  - f. The requirements of the facility for a floodplain location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this Ordinance.
- 2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
  - a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.

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- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
5. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

4.1608. NONCONFORMING USES

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
  - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.
- 2. Except as provided in 4.1608.1.B, any use which has been permitted as a Variance shall be considered a conforming use.

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**4.1609. PENALTIES FOR VIOLATION**

Violations of the provisions of this Ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Five Hundred Dollars (\$500) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Winterset from taking such other lawful action as is necessary to prevent or remedy violation.

**4.1610. AMENDMENTS**

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.



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4.1701 RESIDENTIAL RENTAL HOUSING INSPECTION PROGRAM. Sections 4.1701 through 4.1713 shall be known as the Residential Rental Housing Inspection Program and will be referred hereto in as "this program." The requirements of this program shall be based upon the provisions set forth in the 2021 International Property Maintenance Code as adopted by City Council and as hereafter may be amended and the provisions of Winterset Code Title IV Chapter 12.

4.1702 PURPOSE. The purpose of this program is to provide for the inspection of residential rental properties within the corporate limits of the City of Winterset, Iowa, in order to ensure that such properties conform to minimum standards deemed necessary for the protection of the health and safety of the occupants thereof and the occupants of surrounding properties, and to inhibit the spread of urban blight.

4.1703 SCOPE. The provisions of this program shall apply to the maintenance, repair, equipment, use, and occupancy of all residential rental buildings and accessory structures now in existence or hereafter constructed, habilitated, renovated, or converted to residential use within the corporate limits, including, but not limited to, single- and two-family dwellings, multiple-family dwellings and rooming/sleeping units with the following exceptions:

- a. Single-family dwellings occupied by the owner, or members of that owner's family as defined in Title IV Chapter 4.12003.(A) only.
- b. A duplex, at least one of the units of which is occupied by the owner, and the other unit is occupied by a member of that owner's family as defined in Title IV Chapter 4.12003.(A) only.
- c. Transient shelters and group homes subject to state licensing.
- d. Hotels, motels, extended stay hotels, and other similar uses subject to state licensing.
- e. Dormitory rooms of higher education institutions.
- f. Nursing homes, long-term care, and medical care facilities.
- g. Church parsonages, and other similar facilities owned by religious institutions, that provide housing for their clergy or other similar staff.
- h. Dwellings owned by the local, state, or federal governments.

4.1704 INDEMNIFICATION. The applicant for any rental permit under this program, by making such application, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death

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of any person or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with or related to the issuance of such rental permit 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 program or any other ordinance of the City; and such applicant, by making such application, forever indemnifies the City, its officers and employees and agrees to save it and them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reason of the foregoing even though acts or omissions of the City, its officers or employees may have caused or contributed thereto. The foregoing provisions shall be deemed to be a part of any certificate issued under this program whether expressly recited therein or not.

4.1705 FEES. The fees for activities and services performed by the City of Winterset in carrying out its responsibilities under this Residential Rental Code shall be as indicated in a fee schedule adopted from time to time by the City Council.

4.1706 REGISTRATION REQUIRED. Unless excepted in accordance with 4.1703, all rental properties and rental units, as defined and in accordance with Municipal code 4.601, within the corporate limits of the City of Winterset shall be required to register with the City by the owner or the owner's representative. The owner or owner's representative shall file a completed registration form, as provided by the City, with the Zoning Administrator or its designee within thirty days of the property becoming a rental property, and subsequently at the time the rental certificate renewal is due. A registration form shall be accompanied by a fee as established by resolution of council and in accordance with the Winterset Residential Rental Housing Inspection Administrative Policy.

By submitting an application for a rental property and/or rental units, the property owner consents to the City of Winterset inspector or designee entering and conducting an inspection as described in the Winterset Residential Rental Inspection Administrative Policy.

4.1707 EXPIRATION OF CERTIFICATE. Prior to the expiration date of the rental certificate, the Zoning Administrator or its designee shall mail a renewal notice to the owner advising of the requirements for renewal of the rental certificate. Failure of the owner to complete the requirements for renewal will result in a late payment penalty being applied to the balance owed. If the renewal is not completed within 30 days following expiration of the rental certificate, a notice of violation will be issued to the property owner.

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4.1708 REVOCATION OF CERTIFICATE. Any rental certificate may be summarily revoked by the Board of Appeals upon the review of a notice of violation of any provision of this program. If, at the discretion of the Code Official, an emergency exists which threatens the immediate health, safety, or general welfare of the occupant(s) or general public, the Code Official may immediately issue an order suspending the rental certificate. Upon issuance of the order, the occupant(s) of the unit(s) shall immediately vacate the premises until the rental certificate is reinstated.

4.1709 TRANSFER OF OWNERSHIP. Residential Rental Compliance Certificates shall not be transferable to succeeding owners. Residential Rental Compliance Certificates shall automatically terminate and become null and void, without further action of the City, upon transfer of property ownership or upon execution of an agreement to purchase property on contract.

Every seller of a residential rental property shall give notice to the Zoning Administrator or its designee within thirty (30) days after closing or execution of a contract for sale. This notice shall include the name and address of the buyer.

Every buyer of a residential rental property, including contract buyer, shall submit a new registration form to the Zoning Administrator or its designee within thirty (30) days after closing. This notice shall include the name and address of the buyer and their agent.

4.1710 OUTSTANDING ISSUES. If an owner has outstanding fees, fines, or violations on any property within the City, the issuance of a rental certificate may be withheld by the Zoning Administrator or its designee.

4.1711 COMPLAINT BY TENANT. Unless there are significant health, safety, or general welfare issues, a tenant must first make written contact to the owner or agent. Tenant shall allow at least fourteen (14) days for the owner or agent to correct the basis of the complaint. In the event that the owner or agent does not correct the basis of the tenant's complaint, the tenant may file a complaint with City staff. Complaints shall be made in writing using the city Residential Rental Housing Complaint Form. The complaint form shall be supplemented with documentation that the tenant has first made a written complaint to the owner or agent, and their complaint has not been resolved. City Staff will contact the owner or agent to advise of the complaint and schedule an inspection.

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4.1712 COLLECTION OF FEES, FINES, PENALTIES, AND COSTS. All fees, fines, penalties, and costs imposed upon an owner in the enforcement of this program shall be due when notice of the amount of such fees, fines, penalties, and costs is mailed to the owner.

1. If notice containing the information required by Section 364.17 of the *Code of Iowa* is given and the total amount of such fees, fines, penalties, and costs is not paid within 30 days of when due, or within 10 days of the final action of the Board of Appeals, then:

- A. The owner shall be charged a late payment penalty in the amount of \$25 as per Iowa Code 347.17.5;
- B. Interest shall thereafter accrue on the unpaid balance at the rate of 1.5 percent per month; and,
- C. The City may certify the unpaid balance, interest, and late payment penalty to the County Auditor as a lien upon the rental property for collection in the same manner as a property tax.

4.1713 PENALTIES. In addition to any other penalties provided by this Code, any person violating any provision of this program shall be guilty of a municipal infraction with remedies to the City as provided by this Code.

TITLE V      PUBLIC SERVICES

- |               |  |
|---------------|--|
| CHAPTER ONE   | - CABLEVISION FRANCHISE                          |
| CHAPTER TWO   | - GAS UTILITY FRANCHISE                          |
| CHAPTER THREE | - STREET PAVING PROJECTS-UNDERGROUND CONNECTIONS |
| CHAPTER FOUR  | - SEWER DISTRICT                                 |
| CHAPTER FIVE  | - COLLECTION OF SOLID WASTE                      |

TITLE V CHAPTER 1 CABLEVISION FRANCHISE

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5.103	TERM
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5.101 TERMS. For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present thence include the future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- a. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.
- b. "Basic Cable Service" is the tier of service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.
- c. "Cable Act" means the Cable Communications Policy Act of 1984, as amended.
- d. "Cable Service" means (i) the one-way transmission to Subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection of such Video Programming or any other lawful communication service.
- e. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designated to provide Cable Service and other service to Subscribers.
- f. "FCC" means Federal Communications Commission or successor governmental entity thereto.
- g. "Franchise" shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.
- h. "Franchising Authority" means the City of Winterset, Iowa, or the lawful successor, transferee, or assignee thereof.
- i. "Grantee" mean Cablevision Franchise or the lawful successor, transferee, or assignee thereof.

j. "Gross Revenues" means the monthly Cable Service revenues received by Grantee from Subscribers of the Cable System; provided, however, that such phrase shall not include: (i) revenues received from national advertising carried on Cable System; (ii) any revenues received from premium pay services, converter rental, additional outlet charges or program guides; (iii) any taxes on Cable Service which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

k. "Person" means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

l. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

m. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

n. "Service Tier" means a category of Cable Service or other services provided by Grantee and for which a separate charge is made by Grantee.

o. "Subscriber" means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with Grantee's express permission.

p. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

5.102. GRANT. The Franchising Authority hereby grants to Grantee a non-exclusive Franchise which authorizes the Grantee to construct and operate a Cable System and offer Cable Service and other services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System.

5.103. TERM. The Franchise granted pursuant to this Ordinance shall be for an initial term of fifteen (15) years from the effective date of the Franchise as set forth in Section 5.104, unless otherwise lawfully terminated in accordance with the terms of this Ordinance.

5.104. ACCEPTANCE; EFFECTIVE DATE. Grantee shall accept the Franchise granted pursuant hereto by signing this Ordinance and filing same with the office of City Administrator sixty (60) days after the passage and final adoption of this Ordinance. Subject to the acceptance by Grantee, the effective date of this Ordinance shall be the sixtieth day after its passage and final adoption.

5.105. EQUAL PROTECTION. In the event the Franchising Authority enters into a Franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

5.106. CONDITIONS OF STREET OCCUPANCY. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways.

5.107. RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

5.108. RELOCATION AT REQUEST OF FRANCHISING AUTHORITY. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority; but, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

5.109. RELOCATION AT REQUEST OF THIRD PARTY. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

5.110. TRIMMING OF TREES AND SHRUBBERY. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the Cable System undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the Franchising Authority or property owner pursuant to the terms of this section.

5.111. SAFETY REQUIREMENTS. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System, shall not unreasonably endanger or interfere with the safety of persons or property in the Service Area.

5.112. AERIAL AND UNDERGROUND CONSTRUCTION. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing contained in this section shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Ordinance, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

5.113. REQUIRED EXTENSIONS OF SERVICE. The Cable System as constructed as of the date of the passage and final adoption of this Ordinance substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least fifteen (15) Subscribers within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension other than the usual connect fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Section 5.114 of this Ordinance. In the event that a residence does not meet the density requirements of this section, then the Grantee will use its best efforts to offer a direct broadcast service in order to offer Video Programming to that residence.

5.114. SUBSCRIBER CHARGES FOR EXTENSIONS OF SERVICE. No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of less than fifteen (15) Subscribers per 1,320 cable-bearing strand feet of trunk or distribution cable, Cable Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Cable Service may be expanded, Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of potential Subscribers per 1,320 cable-bearing strand feet of its trunk or distribution cable, and whose denominator equals fifteen (15) Subscribers. Potential Subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance.

5.115. SERVICE TO PUBLIC BUILDINGS. The Grantee shall provide without charge, one (1) outlet of Basic Service to the Franchising Authority's office building(s), fire station(s), police station(s), and public school building(s) that are passed by its Cable System. The outlets of Basic Cable Service shall not be used to distribute or sell Cable Services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this section, the Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Basic Cable Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Cable Service and the additional outlets relating thereto.

#### 5.116. FRANCHISING FEE.

A. Grantee shall pay to the Franchising Authority a franchise fee equal to one percent (1%) of Gross Revenues (as defined in Section 1.1 of the Franchise Agreement) received by Grantee from the operation of the Cable System on an annual basis; provided, however, that Grantee may credit against any such payments: (i) any tax, fee, or assessment of any kind imposed by Franchising Authority or other governmental entity on a cable operator, or Subscriber, or both, solely because of his status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee, or assessment imposed, both on utilities and cable operators and their services), and (iii) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax. For the purpose of this section, the 12-month period applicable under the Franchise for the computation of the franchise fee shall be the calendar year, unless otherwise agreed to in writing by the Franchising Authority and

Grantee. The franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of Grantee showing the basis for the computation. In no event shall the franchise fee payments required to be paid by Grantee exceed five percent (5%) of Gross Revenues received by Grantee in any 12-month period.

B. LIMITATION ON FRANCHISE FEE ACTIONS. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the Grantee is due. Unless within five (5) years from and after said payment due date the Franchising Authority initiates a lawsuit for recovery of such franchise fee in a court of competent jurisdiction, such recovery shall be barred, and the Franchising Authority shall be stopped from asserting any claims whatsoever against the Grantee relating to any such alleged deficiencies.

5.117. RATES AND CHARGES. The Franchising Authority shall not regulate the rates for the provision of Cable Service and other services, including, but not limited to, ancillary charges relating thereto. From time to time, and at any time, Grantee has the right to modify its rates and charges including, but not limited to the implementation of additional charges and rates; provided, however, that Grantee shall give notice to the Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

In the event that Basic Cable Service rate increases are subject to approval of the Franchising Authority, the Grantee may, at its discretion and without consent of the Franchising Authority, increase rates relating to the provision of Basic Cable Service by an amount which is at least equal to five percent (5%) per year.

5.118. RENEWAL OF FRANCHISE. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchising shall be governed by and comply with the provisions of Section 626 of the Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626(a), the Franchising Authority agrees to notify Grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. The Franchising Authority further agrees that such a preliminary assessment shall be provided to the Grantee prior to the time that the four (4) month period referred to in Subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this section, the Grantee and Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

5.119. TRANSFER OF FRANCHISE. Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an Affiliate, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

5.120. TESTING FOR COMPLIANCE. The Franchising Authority may perform technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than two (2) business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the Franchising Authority. Except in emergency circumstances, the Franchising Authority agrees that such testing shall be undertaken no more than two (2) times a year in the aggregate, and that the results thereof shall be made available to the Grantee upon the Grantee's request.

5.121. BOOKS AND RECORDS. The Grantee agrees that the Franchising Authority may review such of its books and records, during normal business hours and on non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

5.122. INSURANCE REQUIREMENTS. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Said insurance shall designate the Franchising Authority as an additional insured. Such insurance shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority.

5.123. INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, board and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorney's fees and costs.

5.124. NOTICE OF VIOLATION. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged noncompliance.

5.125. GRANTEE'S RIGHT TO CURE OR RESPOND. Grantee shall have thirty (30) days from receipt of the notice described in Section 5.124: (a) to respond to the Franchising Authority contesting the assertion of noncompliance or; (b) to cure such default or; (c) in the event that, by the nature of default, such default cannot be cured within the Thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

5.126. PUBLIC HEARING. In the event that Grantee fails to respond to the notice described in Section 5.124 pursuant to the procedures set forth in Section 5.125, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default pursuant to Section 5.124, the Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Franchising Authority which is scheduled at a time which is no less than five (5) business days there from. The Franchising Authority shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

5.127. ENFORCEMENT. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- a) Foreclose on all or any part of any security provided under this Franchise, if any, including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the Franchising Authority reasonably determines is necessary to remedy the default.
- b) Commence an action at law for monetary damages or seek other equitable relief;
- c) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
- (d) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance.

5.128. ACTS OF GOD. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

5.129. DOCUMENTS INCORPORATED AND MADE A PART HEREOF. The following documents shall be incorporated herein by this reference, and in the case of a conflict or ambiguity between or among them, the document of latest date shall govern:

- a) Any enabling Ordinance in existence as of the date hereof;
- b) Any franchise agreement between Grantee and Franchising Authority reflecting the renewal of the Franchise, if any.

5.130. PREEMPTION. If the FCC, or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the Franchising Authority, the jurisdiction of the Franchising Authority shall cease and no longer exist.

5.131. ACTIONS OF FRANCHISING AUTHORITY. In any action by the Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

5.132. NOTICE. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U.S. Postal Service.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Winterset  
Attn: City Administrator  
124 W. Court Avenue  
Winterset, Iowa 50273

TITLE V CHAPTER 1 CABLEVISION FRANCHISE

The notices or responses to the Grantee shall be addressed as follows:

Heritage Cablevision, Inc.  
310 Commerce Drive  
Red Oak, Iowa 51566

with a copy to:

TCI Southeast, Inc.  
Attn: Director of Franchising  
2204 Lakeshore Drive, Suite 325  
Birmingham, AL 35209

and a copy to:

Heritage Cablevision, Inc.  
Attn: State Manager  
2199 Ingersoll Avenue  
Des Moines, Iowa 50312-5227

Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

5.133. DESCRIPTIVE HEADINGS. The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

5.134. SEVERABILITY. If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

## 5.201 FRANCHISE GRANTED

5.201. FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company", and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Winterset, Iowa, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2003, or as subsequently amended or changed.

Section 3. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that: a) plans are provided to the City of Winterset 30 days prior to construction (except for emergency repairs), and b) the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water there from, which have been or may hereafter be located by authority of the City.

Section 4. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

Section 5. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

Section 6. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

Section 7. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

Section 8. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

Section 9. The City reserves the right to impose a franchise fee pursuant to the Iowa Code. The franchise fee shall only be imposed following a public hearing and adoption of an ordinance authorizing said franchise fee. The City shall work with the Company to develop a methodology and timeline to implement the franchise fee.

Section 10. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The Company shall, within (30) thirty days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval this ordinance shall be published in the Winterset Madisonian, the official newspaper for the City of Winterset, Iowa. The effective date of this ordinance shall be the date of publication. In the event that MidAmerican Energy Company does not file its written acceptance of this ordinance within 30 days after its approval by the City Council this ordinance shall be void and of no effect.

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- 5.301 CONNECTIONS REQUIRED
- 5.302 WATER CONNECTIONS
- 5.303 SEWER CONNECTIONS
- 5.304 NOTICE OF PUBLIC HEARING
- 5.305 NOTICE TO MAKE CONNECTIONS
- 5.306 CITY INSTALLATION
- 5.307 ASSESSMENT OF COSTS
- 5.308 PERMIT TO MAKE CONNECTIONS AFTER PAVING

5.301. CONNECTIONS REQUIRED. Whenever the City shall order any street, alley or public ground permanently improved by paving, it shall be the duty of all owners of adjacent and/or abutting property to make underground connections from sewer and water mains to the property line of such adjacent and abutting property before said paving is installed.

5.302. WATER CONNECTIONS. At the time of adoption of a preliminary resolution for the construction of street improvements, the City shall notify the Board of Trustees of the Waterworks of the City of Winterset, Iowa, of the proposed street paving project. The Board of Trustees shall then report to the City the number of service line connections necessary to serve private property dependent for water supply upon water mains located in streets included in the proposed paving project, along with the legal descriptions of the private properties to be served by the water connections, and the names of the property owners.

5.303. SEWER CONNECTIONS. At the time of adoption of a preliminary resolution for the construction of street improvements, the City Administrator shall report to the Council the number of sewer service connections necessary to serve private property dependent for sewage disposal upon sewer mains located in streets included in the proposed paving project, along with the legal descriptions of the private properties to be served by the sewer connections, and the names of the property owners.

5.304. NOTICE OF PUBLIC HEARING. The City shall then notify these property owners of the public hearing on the Resolution of Necessity for the proposed paving project. Notice to these property owners shall be given at the same time and in the same manner as the notice given to property owners who are included in the proposed street assessment district. The notice shall inform the property owner that they will be required to install connections to the water and/or sewer mains if the City decides to proceed with the paving project. For the purposes of the hearing on the Resolution of Necessity, property owners who are notified of the necessity to install water and/or sewer main connections, but whose property is not within the proposed street assessment district, may appear as interested parties.

5.305. NOTICE TO MAKE CONNECTIONS. If after the public hearing on the Resolution of Necessity the Council determines to proceed with the street paving project, the Council shall then adopt a resolution ordering property owners to install the water and/or sewer main connections. Notice of this order shall be mailed by certified mail to the individual property owners. The notice shall also be published in the official legal newspaper once each week for two consecutive weeks. The notice shall state that the owner has thirty days from the date of the first publication to install the necessary connections.

5.306. CITY INSTALLATION. If a property owner has failed to make the water and/or sewer main connections as ordered within the prescribed thirty days, the City shall then cause the connection to be made.

5.307. ASSESSMENT OF COSTS. In the case where the City installed the water and/or sewer connections because of failure of a property owner to install the connections, the Council shall adopt a resolution assessing the cost against the property served by the connections. The City Administrator shall then mail, by certified mail, a statement of the total cost to the property owner. If the property owner fails to make payment within thirty (30) days of the date of the mailing, the City Administrator shall certify the cost to the County Treasurer to be assessed against the property and collected in the same manner as other special assessments. In the event that such an assessment exceeds fifty (50) dollars the property owner may pay the assessment in ten annual installments in the manner and with the same interest rate provided for in Chapter 384 of the Code of Iowa.

5.308. PERMIT TO MAKE CONNECTIONS AFTER PAVING. In the event water and sewer main connections are not made before the street, alley or public ground is permanently improved by paving, and it is necessary to cut through the pavement to make such connections, no permit shall be issued for the making of such connections within twenty-four (24) months after the completion and acceptance of the project except upon payment of a fee of \$50.00 in addition to all other fees and charges.

5.401        SEWER DISTRICT CREATED  
5.402        SEWER SYSTEM DEFINED  
5.403        WHO SHALL PAY RENT  
5.404        RATE OF RENT AND MANNER OF PAYMENT  
5.405        DETERMINATION AND PAYMENT OF RENT FROM  
                PREMISES WITH PRIVATE WATER SYSTEMS  
5.406        FAILURE TO PAY  
5.407        SEWER CONNECTIONS REQUIRED  
5.408        MAINTENANCE AS A NUISANCE  
5.409        CONNECTIONS TO A SEWER  
5.410        PERMIT REQUIRED  
5.411        ISSUANCE OF PERMIT  
5.412        DAMAGES  
5.413        NONCORPORATE SEWER SERVICES  
5.414        WASTE RESTRICTIONS  
5.415        STORMWATER DRAINAGE  
5.416        RESTRICTED DISCHARGE  
5.417        REGULATORY POWERS  
5.418        EXCEPTIONS  
5.419        PRELIMINARY TREATMENT FACILITIES  
5.420        INDUSTRIAL WASTE ACCESSORY EQUIPMENT  
5.421        WASTE WATER TESTING  
5.422        PENALTIES

5.401.        SEWER DISTRICT CREATED.    One sewer district  
is hereby created which includes all of the City of  
Winterset, Iowa.

5.402.        SEWER SYSTEM DEFINED.    For use within this  
ordinance a "sewer system" is composed of main sewers, sewage  
pumping stations, treatment and disposal plants, lateral  
sewers, drainage conduits or channels and sewer connections  
in public streets for private property.

5.403.        WHO SHALL PAY RENT.    Every person, firm or  
corporation whose premises are served by a connection to the  
city sewer system shall pay rent to the city at the rate and  
in the manner provided in 5.404.

## 5.404. SEWER RENTAL, MANNER OF PAYMENT AND RATE REVIEW.

A. RATE OF RENT AND MANNER OF PAYMENT. The rate of rent shall be:

	MINIMUM CHARGE	USE CHARGE	BOD	HIGH STRENGTH SURCHARGE SS	TKN
Operation, Maintenance and Replacement	\$3.00/mo	\$2.65/100 CF	\$.24/lb	\$.21/lb	\$.88/lb
Debt Service and Other	\$8.85/mo	\$3.35/100 CF			
<b>TOTAL</b>	\$11.85/mo	\$6.00/100 CF	\$.24/lb in excess of 300 mg/l	\$.21/lb in excess of 300 mg/l	\$.88/lb in excess of 40 mg/l

The sewer usage shall be determined from the net water bill. High-strength users shall provide and pay the cost of flow measurement, sampling and analysis to determine the surcharge and total charges.

The rent shall be billed monthly and rent shall be based on water consumed during the preceding month and any applicable surcharges.

The rent shall be paid at the Office of the City Administrator within twenty (20) days of the billing date and shall be subject to the same terms and conditions on penalty for late payment as the electric and water bills policy established from time to time by the Board of Trustees of the Municipal Power Plant and Waterworks of the City of Winterset.

The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may be ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by this chapter.

That portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established herein, shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two primary accounts as follows:

1. OPERATIONS AND MAINTENANCE ACCOUNT. An account designated for the specific purpose of defraying operation and maintenance costs, excluding replacements of the treatment works.

2. REPLACEMENT ACCOUNT. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the replacement account shall be made monthly from the operation, maintenance and replacement revenue in the amount of \$30,000 annually which is the average annual amount needed to provide adequate funds for replacement of treatment works equipment during a 20-year useful life.

Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement funds shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

That portion of the total user charge collected which is Designated for reserves shall be deposited in a separate Reserve or capital improvement fund.

Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any user which discharges any substances which singly or by interaction with other substances causes identifiable increases in the cost of operation,

TITLE V

CHAPTER 4

SEWER DISTRICT

maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the City Administrator.

B. RATE REVIEW. The City shall review the user charge system at least every two (2) years, and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacements costs among user and user classes.

The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works.

The User charge ordinance shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204 (b) (1) (A) of the Federal Clean Water and 40 CFR Part 35.2140 dated February 17, 1984.

The sewer rates established and stated herein are determined by the system for development of proportional user charges set out, with representative computations, as Appendix A to Chapter 4 of Title V of the Municipal Code of the City of Winterset, Iowa.

~~SECTION 2. Chapter 4 of Title V Municipal Code of the City of Winterset, Iowa, is amended by adopting the attached Appendix "A".~~

~~SECTION 3. The Municipal Code of the City of Winterset, Iowa is hereby amended to add to Chapter 4 of Title V the new sections providing as follows:~~

5.405. DETERMINATION AND PAYMENT OF RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have private water systems shall pay rent in proportion to the water used as determined by the City Administrator either by an estimate agreed to by the user or by metering the water system.

The rates shall be the same as provided in 5.404, applied as if a city water bill were to be paid. Rent shall be paid at the same time and place as provided in 5.404.

5.406. FAILURE TO PAY. The City shall have a lien upon the real estate served by the sewer system for all charges and interest. The City Administrator shall certify the amount of the lien to the County Auditor and the amounts due shall be collected in the same manner as general property taxes as provided by law.

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5.407. SEWER CONNECTIONS REQUIRED. Wherever a connection to the sewer system is available, all outdoor toilets, outhouses, privy vaults, range closets, cesspools, septic tanks or other similar receptacles used to receive fecal matter, urine or sewage shall, with their contents, be immediately and completely removed from the real property affected and the place where they were located promptly and properly disinfected. Such appliances shall be replaced by individual water closets of durable nonabsorbent material, properly sewer connected, and with individual traps and properly connected flush tanks providing an ample flush of water to thoroughly cleanse the bowl. Each such water closet shall be located inside the dwelling or other building in connection with which it is to be used in a compartment completely separated from every other water closet. Such water closets and all plumbing connection therewith shall be sanitary in every respect and shall be in accordance with the ordinances of the City. No water closet shall be placed out-of-doors.

5.408. MAINTENANCE AS A NUISANCE. Outside toilets, outhouses, privy vaults, range closets, cesspools, septic tanks or other similar receptacles located or maintained upon real property in the City of Winterset, Iowa are public nuisances and may be abated by the procedure set forth in 3.604 of the Winterset Municipal Code of 1989.

5.409. CONNECTIONS TO SEWERS. All connections of private drains or sewers with the public sewers of the City, or the construction or modification of appurtenances to sewers or sewer connections shall be made in accordance with this Chapter.

5.410. PERMIT REQUIRED. No person shall open, uncover, or in any manner make any connection with, or lay drain or sewer, or attach or modify any appurtenance to sewer connections, within the public streets, alleys, sidewalks or public grounds of the City unless a permit has been obtained therefore, or operating under a special contract therefore with the City for such work.

5.411. ISSUANCE OF PERMIT. Any person desiring to use any sewer, do any house drainage, or tap or permit any sewer to be tapped, shall first file with the Office of the City Administrator an application for a permit stating the owner, the name of the plumber making the installation, a description of the premises, for which said sewer connection is required and the purposes for which the connection is required. Upon the payment of a permit fee of \$50.00, the City Administrator shall issue to the plumber a permit to connect with the sewer or to do such house drainage in compliance with the rules and regulations of the City. All work shall be done under the supervision and inspection of the City.

5.412. DAMAGES. The plumber or drain layer who makes any connection with the public sewers shall be held responsible for any damages caused to the sewers, or the public streets, alleys, sidewalks, or other public grounds of the City. The plumber shall restore the streets, alleys, sidewalks, or public grounds to the satisfaction of the City.

5.413. NONCORPORATE SEWER SERVICES. Except as to those premises already connected to the City sanitary sewer system as of December 22, 1993, no person, firm or corporation shall be in any manner connected to the City sanitary sewer system unless and until the premises to be served are within the City corporate boundaries, except as to that property owned by the City, County, State of Iowa or its political subdivisions or by nonprofit corporations providing governmentally related services for the general public benefit on behalf of a political subdivision under contract with and funded, in whole or in part, by the Federal or State Governments or the political subdivisions thereof.

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

- a. Any gasoline, benzene, naptha, kerosene, fuel oil, petroleum derivative, or flammable or explosive liquid, solid, or gas.
- b. Any waters or wastes containing toxic materials and any other poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, create any hazard in the receiving waters of the water pollution control plant, or cause any violation of water pollution control plant effluent limitations or permit conditions.
- c. Any waters or wastes having a Ph lower than 6.0 or greater than 10.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater facilities.
- d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, lumber, sticks, newspaper, coarse paper of any kind, fruit, vegetables, peelings, cotton, refuse, unground garbage, whole blood, paunch manure, hair and fleshing's, entrails and paper dishes, cups and milk containers, either whole or ground by garbage grinders.

e. Any waters or wastes having (1) 5-day biochemical oxygen demand greater than 300 milligrams per liter, or (2) containing more than 300 milligrams per liter of suspended solids, or (3) having an average daily flow greater than 2 percent of the average wastewater flow of the City, shall be subject to the review of the City Administrator. Where necessary, in the opinion of the City Administrator, the owner shall provide, at their expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 milligrams per liter, or (2) reduce the suspended solids to 350 milligrams per liter, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to propose preliminary treatment facilities shall be submitted for the approval of the City Administrator and no construction of such facilities shall be commenced until said approvals are obtained in writing.

f. No person shall increase the use of potable, process or surface waters in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Chapter.

5.415. STORMWATER DRAINAGE. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Administrator. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City Administrator. No person shall connect a roof downspout, exterior or interior foundation drain, area drain or other source of surface water or groundwater to a sanitary sewer or to a building sewer connected to a sanitary sewer.

5.416. RESTRICTED DISCHARGE. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes unless determined in advance by the City Administrator that such wastes can neither harm the sewers, wastewater treatment process, or equipment, have an adverse effect on the receiving stream, nor can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City Administrator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the water pollution control plant, degree of treatability of wastes in the water pollution control plant, and other pertinent factors. The substances which are prohibited, unless approved in writing by the City Administrator prior to any discharge are:

- a. Wastewater containing more than 25 milligrams per liter of petroleum oil, no biodegradable cutting oils, or products of mineral oil origin.
- b. Any waters or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) and one hundred fifty degrees (150°) Fahrenheit, (0° and 65° Centigrade).
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of one (1) horsepower or greater shall be subject to the review and approval of the City Administrator.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. Any waters or wastes containing objectionable amounts of iron, chromium, copper, zinc, nickel, mercury, cadmium and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the City Administrator for such materials.

f. Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the City Administrator as necessary, after treatment of the composite wastewater, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Administrator in compliance with applicable state or federal regulations.

h. Any waters or wastes having a Ph in excess of 10.5.

i. Materials which exert or cause:

(1) Unusual concentrations of inert suspended or dissolved solids.

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

(3) Unusual biochemical oxygen demand, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the water pollution control plant.

(4) Volumes of flow, concentrations, or both, which constitute a "slug".

j. Waters or wastes containing substances which are not amendable to treatment or reduction by the wastewater treatment process employed, or are amendable to treatment only to such degree that the water pollution control plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

k. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five degrees Centigrade).

Any person using the sanitary sewer system, whether holding a discharge permit or not, who causes or allows a prohibited substance to be discharged into the sewer system without the prior written approval of the City Administrator shall immediately upon the occurrence of the prohibited discharge notify the Office of the City Administrator. The notification shall include the name and address of the reporting person or agency, the location of the discharge, the date and time of the discharge, the type of waste involved, the concentration and volume of the discharge and the corrective actions taken.

Any person using the sanitary sewer system, whether holding a discharge permit or not, who discharges prohibited substances into the sewer system without the prior written approval of the City Administrator shall be strictly liable to the City for any and all expense, loss or damage to the City wastewater facilities resulting from this discharge, which liability shall be in addition to any fines or other penalties imposed upon the Discharger under federal or state laws and regulations.

Any person using the sanitary sewer system, whether holding a discharge permit or not, who discharges prohibited substances into the sewer system without the prior written approval of the City Administrator shall thereafter provide and maintain at the Discharger's cost pre-discharge treatment facilities to prevent further prohibited discharges as hereafter required unless in the opinion of the City Administrator such facilities are not necessary.

5.417. REGULATORY POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5.416 above, and which in the judgment of the City Administrator, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the City Administrator may:

- a. Revoke or cancel the permit,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers,
- c. Require control over the quantities and rates of discharge, and/or
- d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

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

5.418. EXCEPTIONS. Grease, oil and sand interceptors shall be provided when, in the opinion of the City Administrator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Administrator, and shall be located as to be readily and easily accessible for cleaning and inspection.

5.419. PRELIMINARY TREATMENT FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

5.420. INDUSTRIAL WASTE ACCESSORY EQUIPMENT. When required by the City Administrator, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the City Administrator. The manhole shall be installed by the owner at their expense, and shall be maintained by them so as to be safe and accessible at all times.

5.421. WASTE WATER TESTING. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manholes provided, or upon suitable samples taken at said control manholes. In the event that no special manhole has been required, the control manhole shall be considered to the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater facilities and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Biochemical oxygen demand and suspended solids analysis will be obtained from 24-hour composites of all outfalls whereas pH analyses will be determined from periodic grab samples, unless directed otherwise by the City Administrator.

5.422. PENALTIES. Any person violating any provision of this Chapter or fails to comply with any of the requirements of this Chapter shall upon conviction be deemed to have committed a municipal infraction punishable as provided by this Municipal Code and by law. In addition, any person who violates this Chapter or who fails to comply with its requirements shall upon conviction be guilty of a simple misdemeanor punishable as provided by law. Each day any such violation continues shall be considered a separate offense under this Chapter subjecting the violator, if so continued, to prosecution for each separate offense.

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5.501	PURPOSE
5.502	DEFINITIONS
5.503	SOLID WASTE COLLECTION SERVICES
5.504	COLLECTION RULES
5.505	RESIDENTIAL BILLING SERVICES
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5.507	LIEN FOR NONPAYMENT
5.508	LIEN NOTICE
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5.523	APPEALS
5.524	PENALTY

5.501. PURPOSE. The purpose of this Chapter is to eliminate unhealthy, unsanitary and unsightly conditions in the City caused by the deposit and accumulation of solid waste.

5.502. DEFINITIONS. All words as used in this Chapter shall be given their usual and customary definitions according to the context in which the word appears. All technical words, wherever possible, shall be given their definition as now or hereafter appears in the Code of Iowa or in the Iowa Administrative Code.

5.503. SOLID WASTE COLLECTION SERVICES. The City shall provide by contract for the collection of solid waste from residential premises as herein defined. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises. For purposes of this Chapter, commercial premises shall include any premises having more than four (4) residential dwelling units which are not separate properties subject to the Horizontal Property Regime Act of the State of Iowa. The availability of these Collection Services whether or not such the service is used regularly or at all by the occupant of the premises is hereby declared a benefit to any such premises at least equal to the monthly charge specified for the service. Such charge shall be paid whether or not the occupant uses the solid waste collection services available to the premises.

5.504. COLLECTION RULES.

- A. Every person, firm or corporation owning, occupying, controlling or renting a residential premises which front upon or abuts a street or alley upon which the City or the City's contract agent maintains a solid waste collection route and wherein residential solid waste is generated or accumulates shall cause such solid waste to be placed for collection either by the City or by the City's contract agent pursuant to the collection and disposal Rules and Regulations of the City and of the laws of the State of Iowa.
- B. The City is authorized to adopt Rules and Regulations necessary to implement the Collections Services provided by the City or the City' contract agent(s). A copy of the Rules and Regulations shall be kept on file in the Office of the City Administrator and be available to public review and/or inspection during regular City Hall business hours.

5.505. RESIDENTIAL BILLING SERVICES. The payment for the collection of Residential Solid Waste Collection shall be in accordance with the following:

A fee shall be charged to each occupied dwelling unit each month for the collection of residential solid waste and recyclables, which fee shall include both the fee paid to the Contractor authorized to collect the solid waste from the residential premises and the costs of the City for its services for such collection activities. The fee shall not be charged when the City is notified that the dwelling union is vacant for the billing period. The City fee shall be established by the City.

The City shall prepare and issue monthly bills to each residential customer for the collection of the solid waste and recyclables.

The residential customer bill for each month's collection service shall be due and payable at the Office of the City Administrator on the fifteenth day of the month following the end of the month in which the service is provided. The City may combine the solid waste collection billing as part of the general billing made by the City to the residential customer for other City utility services.

Any residential customer billing not paid when due shall be deemed delinquent. A late payment penalty of one and a half percent (1½%) of the amount due shall be added each month to the delinquent balance. The City Administrator is authorized to waive this penalty in instances where the late payment as determined by the City Administrator is due to reasonable cause not attributable to the residential customer.

A fee as set forth in the fee schedule established by the City shall be charged for all bank checks or drafts which are not honored by the bank upon its presentment.

5.506. SERVICE DISCONTINUED. Collection of residential solid waste and recyclables shall be discontinued in accordance with the following:

1. Notice. Following the date that bills for the collection of residential solid waste and recyclables are due and payable (i.e. the fifteenth day of the month), the Clerk shall send a written notice to each delinquent customer that the combined utility services and/or the collection of residential solid waste and recyclables may be discontinued if payment, including late payment charges, is not received within twelve (12) days from the date the notice is mailed. The notice shall afford the customer the opportunity to request a hearing before the City Administrator prior to the discontinuance of service. Such written notice shall be sent by first class mail to the customer's address where the service is provided. If the customer is a tenant and if the owner or landlord of the property has made written request for such Notice, the written notice sent to the customer shall also be given to the owner or landlord.
2. Service Discontinued. If payment for all of the services billed by the City on the combined service account is not received within twelve (12) days following the date the

written notice is sent to the customer and payment arrangements have not been made pursuant to a hearing before the City Administrator, the collection of solid waste and recyclables for this customer may, in the discretion of the City Administrator, be discontinued for nonpayment of the services.

5.507. LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for fees for the collection of residential solid waste and recyclable from the premises. Fees for the collection of residential solid waste and recyclables, if not paid as provided by this Chapter, shall constitute a lien upon the premises served and may be certified by the City Administrator to the County Treasurer for collection in the same manner as property taxes. The City Administrator is authorized to charge the maximum allowable administrative fee for certifying the delinquent account to the County Treasurer.

5.508. LIEN NOTICE. A lien for delinquent fees for the collection of residential solid waste and recyclables shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail through the United States Postal Service to the address shown on the request for notice and/or to the customer's address for billing purposes not less than thirty (30) days prior to certification of the lien to the County Treasurer.

5.509. CONTAINER SIZES AND CHARGES FOR RESIDENTIAL PREMISES. Container size and charges for solid waste collection and disposal from residential premises shall be fixed and determined by the City pursuant to Section 5.504 of this Chapter. Such container size and charges may from time to time be amended by the City.

5.510. COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak proof, durable and of easily cleanable construction. Each such vehicle or container shall be kept clean to prevent offensive nuisances, pollution or insect breeding and shall be maintained in good repair.

5.511. 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 there from, 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 where the spill or leakage occurred properly cleaned.

5.512. FREQUENCY OF COLLECTION. All solid waste shall be collected from all premises at least once each week; or, more often as may be necessary for commercial, industrial or institutional premises.

5.513. RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste there from as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

5.514. CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

5.515. COMMERCIAL PERMIT REQUIRED. No person or entity shall collect garbage, rubbish or solid waste from Industrial, Commercial and Institutional premises within the city corporate limits unless and until a permit is issued to them by the City as hereinafter provided.

5.516. PERMIT PROCEDURE. Any person or entity desiring to collect garbage, rubbish or solid waste within the City shall first file a written application with the City upon forms furnished by the City for authority to collect this refuse. The application or accompanying documents shall provide the following:

- a. The full name, business address, mailing address (if different), telephone number and FAX number (if any) of the applicant;
- b. The type(s) of refuse to be collected by the applicant;
- c. The weekly collection schedule for the applicant;
- d. The applicant's plan for recycling services to be

provided to their customers; and,

e. Such other information as may be required by the City Administrator for administration and oversight of the purposes of this Chapter.

5.517. PERMIT FEE. Each Permittee shall pay to the City for each calendar year or portion thereof a fee of Twenty-five dollars (\$25.00). The initial permit fee shall accompany the permit application required in the preceding paragraph and shall be nonrefundable in all events.

5.518. PERMIT CONDITIONS. The permit issuance shall be conditioned upon the following:

a. The permittee may surrender the permit at any time without refund of the permit fee.

b. The City Administrator may revoke the permit at any time for the permittee's violation of federal, state or city laws or regulations relating to solid waste collection within the City. The City Administrator's action may be appealed to the City Council.

c. Each permittee shall be required to deposit all garbage, rubbish, refuse and solid waste collected within the City at the sanitary landfill owned and operated by the South Central Iowa Landfill Agency.

d. Each permittee shall, on a daily basis, deposit all garbage collected within the City at the sanitary landfill owned by South Central Iowa Landfill Agency. No garbage shall be stored overnight in the permittee's garbage trucks or on the permittee's premises.

e. The permittee's recycling plan shall contain these minimum specifications:

1. The permittee must provide the recycling containers;
2. The permittee must specify a collection schedule for its customers;
3. The permittee must provide collection of recyclable materials from each customer at least once per week unless normal solid waste collection service is provided less frequently than weekly, in which case the frequency of collection shall be the same as normal solid waste collection;

4. The permittee shall own the recyclable materials they have collected and may market this material as they see fit. However, the recyclable material may not be disposed within the City corporate limits without the approval of the City Administrator;
5. The permittee shall submit an annual report to the City Administrator on or before January 31 of each year for the previous calendar year identifying the weight in tons of all recyclable material collected within the City from its customers;
6. The permittee must establish and implement a plan to inform their customers of the recycling services available and of the federal and state requirements for recycling; and,
7. The recycling plan shall include all materials now or hereafter designated as recyclable by the Iowa Department of Natural Resources.

5.519. COLLECTION METHOD. Except for areas within the Downtown Commercial Zoning District, all solid waste collection within the City shall be from the street right of way only. Except for those alleys in the Downtown Commercial Zoning District, the City alleys shall not be used by the permittee's garbage trucks to collect refuse.

## 5.520. VOLUME BASED GARBAGE COLLECTION AND RECYCLING.

DEFINITIONS. For purposes of this Code Section, the following terms shall have the meanings set forth herein unless otherwise limited or expanded elsewhere in this Chapter.

Area shall mean the legally defined boundaries of the City of Winterset, Iowa (hereafter City in this Chapter).

Commercial and Industrial Units/Occupants shall be all locations within the City which are not considered residential units/occupants under this Section. Mobile home parks where water services are metered by a single meter are considered commercial. All rental units or complexes of four or more residential rental units are considered commercial units. Commercial and industrial units are subject to this Section.

Containers or Bins shall mean those containers and bins for collection of garbage or recyclables.

Curbside shall mean that portion of the right of way adjacent to paved or traveled City roadways contiguous to the frontage of properties in the City. Curbside also means at any point further than five feet from the front line of any dwelling, structure, business or building. See (f) below and Subparagraph 12 hereof.

Curb Side Collection shall mean the collection of all garbage or recyclables placed curbside or in front of the house as near to the street as possible if no curb exists.

Front shall mean that portion of a dwelling, business or other structure facing any street, highway or other place. A structure may have more than one front if it faces on more than one street, highway or other place, for example a corner lot. On a structure that has no lines parallel to said street, highway or other place the front shall be that portion or portion most nearly parallel to the said street, highway or place and if the sides are equally parallel to the street, highway or other place the two sides shall both be the front. Where the front line is uneven, front shall mean the most forward portion of the structure.

Garbage and Refuse Shall mean every waste accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit or vegetables. Dead animals are not included in the term "garbage". Refuse shall mean all other miscellaneous waste materials not specifically defined as garbage or specifically defined as recyclable.

Residential Unit/Occupant shall mean each single family home or multi family dwelling located within the corporate limits of the City and occupied by a person or group of person, except mobile home parks per subparagraph (B). However, all residential rental structures or residential complexes of four or more rental units are considered commercial units. Any Home Occupation including residential day care centers in any Residential Zoning District as defined by the City zoning laws shall be considered a residential unit/occupant hereunder for purposes of disposal of garbage and recyclables generated by the Home Occupation.

Recyclable(s) shall mean those items defined as a recyclable(s) in subparagraph 4 of this Section.

Unit Based Pricing shall mean a system with an ever-increasing charge based upon number of containers utilized or upon actual weight of garbage generated

All individuals or entities holding a license to haul garbage and refuse in the City of Winterset shall charge its customers based upon a unit based pricing system, with charges increasing with each larger size or weight of container. The unit-based prices shall be based on the size of containers utilized or based upon actual weight collected. The service levels for the unit based pricing for residential customers shall include:

- one weekly pickup of not more than 35 gallons or 45 pounds
- one weekly pickup of not more than 64 gallons or 90 pounds
- one weekly pickup of not more than 96 gallons or 135 pounds

Any additional containers shall be charged an additional cost. The weight of any individual container and contents shall not exceed 135 pounds.

Each commercial, industrial and residential unit/occupant in the City shall recycle those items designated in subparagraph 4 of this Section. Those items designated as recyclables shall not be disposed of except by delivery by the commercial, industrial or residential unit/occupant, or by a licensed recyclable hauler, to an individual or entity engaging in recycling of the item involved. No recyclables shall be disposed of by depositing same with garbage or refuse and no licensed hauler shall pick up any recyclable commingled with garbage or refuse.

Recyclables under this Section are defined as follows:

- (1) Tin
- (2) Clear Glass bottles and jars
- (3) Plastic milk jugs designated No. 2 H.D.P.E.
- (4) Newsprint
- (5) Office paper
- (6) Cardboard (corrugated)
- (7) Magazines, Slicks and Catalogues (no phone books)
- (8) Waste oil (in leak-proof containers)
- (9) Lead-acid batteries (casing undamaged)

No licensed recyclable hauler is required to pick up items 8 and 9 listed above as part of their regular customer pick up. However, any licensed recyclable hauler making any scheduled recyclable pick up shall pick up items numbered 1 through 7.

The City reserves the right to add other items as designated recyclables at a later date, including but not limited to:

- a. Aluminum
- b. Bi-metallic cans
- c. Brown and green glass
- d. No. 1 P.E.T.E. plastics and other No. 2 H.D.P.E. Plastics

5.521. PUBLIC EDUCATION:

The Recyclable Hauler will develop a plan of education so as to inform their clientele of this section requirements imposed upon the collection of garbage, refuse and recyclables. This plan of education shall be submitted, along with the License Application, for review and approval as a part of the licensing process. As a part of this educational effort the Recyclable Hauler will distribute, in printed form, a statement of their collection schedule as well as a statement of items, which are recyclable, and an explanation concerning how the garbage/refuse and recyclable system is to operate. This printed statement shall be distributed to existing and new customers in either English and Spanish language form as required. Any cost associated with the educational effort shall be the exclusive responsibility of the Recyclable Hauler.

The City shall make available unbelted advertising space, as is available to the City, without cost for use as part of this educational effort, and shall provide such other assistance as is reasonably possible at no cost of the City.

5.522. ALTERNATE DROP-OFF SITE FOR RECYCLABLES:

The alternate drop-off site for recyclable materials shall be located at the South Central Iowa Landfill located east of Winterset.

5.523. APPEALS. Any person or party aggrieved by the application of this Code Chapter or any Rules and Regulations adopted by the City pursuant to this Chapter shall file with the City Administrator a written grievance setting forth their complaint, which grievance shall be heard by the Mayor who shall provide reasonable notice to the Complainant of the time, date and place of such hearing. The decision of the Mayor on the grievance shall be final unless the Complainant timely appeals the Mayor's decision to the Iowa District Court for Madison County upon a Petition for Writ of Certiorari.

5.524. PENALTY. Unless another penalty is expressly provided by this Chapter for any particular provision or section, any person violating any provision of this Chapter or any Rule or Regulation adopted pursuant to this Chapter shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

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| CHAPTER ONE    | - INTRODUCTIONS AND DEFINITIONS           |
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| CHAPTER FOUR   | - TRAFFIC-CONTROL DEVICES                 |
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6.101 PURPOSE  
6.102 WORDS AND PHRASES  
6.103 STATE CODE DEFINITIONS

6.101. PURPOSE. The purpose of this Title is to regulate traffic upon and use of the streets of the City of Winterset, Iowa, and to provide for enforcement of these regulations.

6.102. WORDS AND PHRASES. Where the following words and phrases are used in this Title, they are hereby defined:

(a) PARK OR PARKING. Means 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.

(b) STAND OR STANDING. Means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

(c) STOP. When required means complete cessation from movement.

(d) STOP OR STOPPING. When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(e) HUMAN POWERED WHEELED VEHICLE. Means the following devices in which any person or property may be transported upon wheels upon or across land moved by human power: bicycles, tricycles, skateboards, roller skates and scooters. Devices not described are excluded from this definition.

6.103. STATE CODE DEFINITIONS. Any term or word defined in Iowa Code Chapter 321 as now enacted or hereafter amended is hereby incorporated into this Title by this reference.

- 6.201            TRAFFIC ADMINISTRATION
- 6.202            ANNUAL REPORTS BY CHIEF OF POLICE
- 6.203            AUTHORITY OF POLICE
- 6.204            POLICE AND FIRE DEPARTMENT OFFICERS
- 6.205            REQUIRED OBEDIENCE TO PROVISIONS OF TRAFFIC REGULATIONS
- 6.206            BICYCLES OR ANIMAL-DRAWN VEHICLES

6.201. TRAFFIC ADMINISTRATION. Traffic administration is hereby established under the Chief of Police of this City.

6.202. ANNUAL REPORTS BY CHIEF OF POLICE. Upon request by the City Council, the Chief of Police shall prepare annually a traffic report which shall be filed with the City Administrator. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents; the number of persons killed and injured, the number and nature of violations and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

6.203. AUTHORITY OF POLICE. Provisions of this Title and the Iowa law relating to motor vehicles shall be enforced by the City Police Department.

6.204. POLICE AND FIRE DEPARTMENT OFFICERS. The officers of the police department and of the fire department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws.

6.205. REQUIRED OBEDIENCE TO PROVISIONS OF TRAFFIC REGULATIONS. Any person who shall willfully fail or refuse to comply with any lawful order or direction of officers of the fire department or officers of this police department or who shall fail to abide by the provisions of this Title violates this Title.

6.206. BICYCLES OR ANIMAL-DRAWN VEHICLES. Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provision of this Title applicable to the driver of a vehicle, except those provisions of this Title which by their nature can have no application.

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Pursuant to Iowa Code Section 380.10 the City of Winterset does hereby establish, declare and adopt by reference the following sections from Iowa Code chapter 321 whose subject matter concerns motor vehicles and the laws of the road to be applied within the City of Winterset, Iowa:

<u>MUNICIPAL CODE SECTION</u>	<u>IOWA CODE SECTION</u>	<u>SUBJECT MATTER</u>
6.321.1	321.1	Definitions of Words and Phrases
6.321.17	321.17	Operating or permitting operation of non-registered vehicle
6.321.20B	321.20B	Failure to prove security against liability (Non-accident related)
6.321.32	321.32	Failure to carry registration card
6.321.34	321.34	Registration violation
6.321.37	321.37	Display of Plates
6.321.57	321.57	Failure to have proper plates (manufacturer, transporter, dealer)
6.321.78	321.78	Injuring or Tampering with Vehicles
6.321.79	321.79	Attempt to Injure
6.321.92	321.92	Altering or Changing Numbers
6.321.98	321.98	Operation Without Registration
6.321.99	321.99	Fraudulent Use of Registration
6.321.104	321.104	Violations - certificate of title
6.321.174	321.174	Operators License - Operation of Commercial Motor Vehicles
6.321.174A	321.174A	Operating with expired license
6.321.180	321.180	Instruction Permits
6.321.180a	321.180a	Special Instruction Permit
6.321.180B	321.180B	Violation of graduated driver's license conditions
6.321.181	321.181	Temporary Permit
6.321.193	321.193	Restrictions on Licenses
6.321.194	321.194	Violations of conditions of minor's school license
6.321.210	321.210	Suspension of Operator's license
6.321.210A	321.210A	Suspension of Operator's license for failure to pay fine, penalty, surcharge or court costs
6.321.216	321.216	Unlawful Use of License - Penalty
6.321.216B	321.216B	Use of Driver's license or non-operator's identification Card by underage person to obtain alcohol
6.321.216C	321.216C	Use of Driver's license on non-operator's identification Card by underage person to obtain Cigarettes or tobacco products
6.321.218	321.218	Operating Without Valid Motor Vehicle

TITLE VI	CHAPTER 3	IOWA CODE CHAPTER ADOPTION BY REFERENCE
		License or
		When Disqualified - Penalties
6.321.219	321.219	Permitting Unauthorized Minor to Drive
6.321.220	321.220	Permitting Unauthorized Person to Drive
6.321.228	321.228	Provisions Refer to Highways - Exceptions
6.321.229	321.229	Obedience to Peace Officers
6.321.231	321.231	Failure of driver of emergency vehicle to exercise caution while on emergency
6.321.232	321.232	Radar jamming devices
6.321.234	321.234	Failure to observe seating requirements
6.321.247	321.247	Golf Cart Operations on City Streets
6.321.256	321.256	Failure to obey traffic control device
6.321.257	321.257	Failure to respond to yellow (caution) signal
6.321.259	321.259	Unauthorized Signs, Signals or Markings
6.321.262	321.262	Damage to Vehicles
6.321.263	321.263	Information and Aid - Leaving Scene of Accident
6.321.264	321.264	Striking Unattended Vehicle
6.321.265	321.265	Striking Fixtures Upon a Highway
6.321.275	321.275	Operation of Motorcycles and Motorized Bicycles
6.321.277	321.277	Reckless Driving
6.321.277a	321.277a	Careless Driving
6.321.278	321.278	Drag Racing Prohibited
6.321.284	321.284	Open containers of alcohol in motor vehicles
6.321.285	321.285	Excessive speed
6.321.288	321.288	Controller Vehicle-Reduced Speed
6.321.294	321.294	Failure to maintain minimum speed when directed by officer
6.321.297	321.297	Driving on Right Hand Side of Roadway - Exceptions
6.321.298	321.298	Meeting and Turning to Right
6.321.299	321.299	Overtaking a Vehicle
6.321.302	321.302	Overtaking on the Right
6.321.303	321.303	Limitations on Overtaking on the Left
6.321.304	321.304	Prohibited Passing
6.321.305	321.305	Violating one-way street designation
6.321.306	321.306	Improper use of lanes
6.321.307	321.307	Following to Closely
6.321.308	321.308	Motor Trucks and Towed Vehicles - Distance Requirements
6.321.309	321.309	Towing - Convoys - Drawbars

TITLE VI	CHAPTER 3	IOWA CODE CHAPTER ADOPTION BY REFERENCE
6.321.310	321.310	Unlawful towing of four-wheeled trailer
6.321.311	321.311	Turning at Intersection
6.321.312	321.312	Turning on Curve or Crest of Grade
6.321.313	321.313	Starting Parked Vehicles
6.321.314	321.314	When Signal Required
6.321.315	321.315	Signal Continuous
6.321.316	321.316	Stopping
6.321.317	321.317	Signal by Hand and Arm or Signal Device
6.321.318	321.318	Method of Giving Hand and Arm Signals
6.321.319	321.319	Entering Intersections from Different Highways
6.321.320	321.320	Left Turns - Yielding
6.321.321	321.321	Entering Thru Highways
6.321.322	321.322	Vehicles Entering Stop or Yield Intersection
6.321.323	321.323	Moving Vehicle Backward on Highway
6.321.324	321.324	Operation on Approach of Emergency Vehicles
6.321.325	321.325	Pedestrian Subject to Signal
6.321.326	321.326	Pedestrian on Left
6.321.328	321.328	Pedestrian failing to use crosswalk
6.321.329	321.329	Vehicle failing to yield to pedestrian
6.321.333	321.333	Failure to yield to blind person
6.321.340	321.340	Driving in or through safety zone
6.321.353	321.353	Stopped Before Crossing Sidewalk - Right of Way
6.321.354	321.354	Stopping on Traveled Way
6.321.355	321.355	Disabled Vehicle
6.321.358	321.358	Stopping, Standing or Parking
6.321.359	321.359	Moving Other Vehicle
6.321.360	321.360	Prohibited parking in front of theaters and hotels
6.321.361	321.361	Parking too far from curb/angular parking
6.321.362	321.362	Unattended Motor Vehicle
6.321.363	321.363	Obstruction to Driver's View
6.321.365	321.365	Coasting Prohibited
6.321.367	321.367	Following Fire Apparatus
6.321.368	321.368	Crossing Fire Hose
6.321.369	321.369	Putting Debris on Highway
6.321.370	321.370	Removing Injurious Material
6.321.372	321.372	Failure of school bus driver to use appropriate signals
6.321.381	321.381	Movement of Unsafe or Improperly equipped Vehicles
6.321.383	321.383	Failure to display reflective device on slow-moving vehicle

TITLE VI	CHAPTER 3	IOWA CODE CHAPTER ADOPTION BY REFERENCE
6.321.384	321.384	When Headlights Required
6.321.385	321.385	Insufficient number of headlamps
6.321.386	321.386	Insufficient number of headlamps - motorcycles and motorized bicycles
6.321.387	321.387	Improper rear lamp(s)
6.321.388	321.388	Improper registration plate lamp
6.321.389	321.389	Improper rear reflector
6.321.390	321.390	Reflector requirements
6.321.392	321.392	Improper clearance lights on truck or trailer
6.321.393	321.393	Lighting device color and mounting
6.321.394	321.394	No lamp or flag on rear-projecting load
6.321.395	321.395	Parking on certain roadways without parking lights
6.321.397	321.397	Improper light on bicycle
6.321.398	321.398	Improper light on other vehicle
6.321.402	321.402	Improper use of spotlight
6.321.403	321.403	Improper use of auxiliary driving lights
6.321.404	321.404	Improper brake light
6.321.409	321.409	Improperly adjusted headlamp
6.321.415	321.415	Required Usage of Lighting Devices
6.321.419	321.419	Improper head lighting when night driving
6.321.420	321.420	Excessive number of driving lights
6.321.422	321.422	Lights of improper color-front and rear
6.321.423	321.423	Failure to use flashing signal on slow-moving vehicles
6.321.430	321.430	Defective braking equipment
6.321.432	321.432	Horns and Warning Devices
6.321.433	321.433	Sirens and Bells Prohibited
6.321.434	321.434	Bicycles Sirens or Whistles
6.321.436	321.436	Mufflers, Prevention of Noise
6.321.437	321.437	Failure to meet mirror requirements
6.321.438	321.438	Windshield and Windows
6.321.439	321.439	Defective windshield wiper
6.321.440	321.440	Defective tires
6.321.441	321.441	Unauthorized use of metal tire or track
6.321.442	321.442	Projections on Wheels
6.321.445	321.445	Safety Belts and
Safety Harness Use Required		
6.321.446	321.446	Child Restraint Devices
6.321.454	321.454	Width and length violations
6.321.455	321.455	Excessive side projection
of load - passenger vehicle		
6.321.456	321.456	Excessive height
6.321.457	321.457	Excessive length

TITLE VI	CHAPTER 3	IOWA CODE CHAPTER ADOPTION BY REFERENCE
6.321.460	321.460	Spilling loads on highways
6.321.462	321.462	Failure to use required towing equipment
6.321A.5	321A.5	Security required following accident-exceptions
6.321A.13		Suspension of Operator's license for nonpayment of judgments-exceptions
6.321A.17		Proof required upon certain Convictions
6.321A.31		Surrender of license and registration
6.321A.32(1), (2)	321A.32(1), (2)	Driving a motor vehicle upon the highway while the Driver's license or registration or nonresident's operating privileges are suspended, denied or revoked under Iowa Code Chapter 321A
6.321A.32A	321A.32A	Civil Penalty upon suspension, revocation or barment of Operator's license
6.321G.5	321G.5	Display of identification number
6.321G.9	321G.9	Operation on roadway
6.321G.11	321G.11	Mufflers
6.321G.12	321G.12	Lights required and brakes required
6.321G.13	321G.13	Lights and flag

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6.401 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES  
6.402 DESIGNATING CROSSWALKS AND MARKING TRAFFIC LANES  
6.403 (Left Blank Intentionally)  
6.404 PLAY STREETS  
6.405 (left blank intentionally)  
6.406 TRAFFIC-CONTROL SIGNALS  
6.407 TRAFFIC-CONTROL SIGNALS REGULATION  
6.408 THROUGH STREETS  
6.409 AUTHORITY TO ERECT STOP OR YIELD SIGNS  
6.410 STOP OR YIELD AT INTERSECTING THROUGH STREETS AND  
OTHER INTERSECTIONS  
6.411 SPECIAL STOP SIGNS  
6.412 SPECIAL YIELD SIGNS  
6.413 APPROACHING STOP INTERSECTIONS  
6.414 APPROACHING YIELD INTERSECTION  
6.415 STOP WHEN TRAFFIC OBSTRUCTED  
6.416 SCHOOL ZONES  
6.417 STREETS RESTRICTED TO CERTAIN THROUGH TRUCK TRAFFIC  
6.418 "U" TURNS  
6.419 STOP BEFORE CROSSING SIDEWALK  
6.420 STOP BEFORE ENTERING FROM PRIVATE DRIVE  
6.421 SPECIAL TRAFFIC CONTROL DEVICES  
6.422 RIGHT TURN ONLY ON TURNING LANES

6.401. AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Mayor shall order the placement and maintenance of traffic-control devices when and as required under ordinances of this City. During an emergency or temporary condition the Mayor, as traffic conditions require, may order the placement and maintenance of additional traffic-control devices to control such emergency or temporary condition.

6.402. DESIGNATING CROSSWALKS AND MARKING TRAFFIC LANES. The Mayor is hereby authorized to:

- (1) designate crosswalks at intersections where required by traffic conditions and to cause such crosswalks to be designated by marks or lines upon the surface of the roadway;
- (2) to cause traffic lanes upon street rights-of-way to be marked for traffic at such places as traffic conditions may require consistent with the ordinances 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.

6.403. (left blank intentionally)

6.404. PLAY STREETS. The Mayor shall have authority to declare any street, or part thereof, a play street and to place or have erected appropriate signs or devices in the roadway indicating the street is closed to vehicular traffic. 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.

6.405. (left blank intentionally)

6.406. TRAFFIC-CONTROL SIGNALS. Traffic-control signals shall be installed and maintained at the following intersections:

(a) First Street at its intersections with Green Street, Jefferson Street, Court Avenue, and Washington Street.

6.407. TRAFFIC-CONTROL SIGNALS REGULATION. Traffic control signals consisting of colored lights or colored lighted arrows shall regulate vehicle and pedestrian traffic in the manner provided by Iowa Code Section 321.257 as now enacted or hereafter amended.

6.408. THROUGH STREETS. Streets or portions of streets described below are hereby declared to be through streets.

(a) Lane Street from the east line of Fourth Avenue to the west line of First Street, and from the east line of First Street to the west line of Tenth Street.

(b) Buchanan Street from the east line of Fifth Avenue to the west line of Second Avenue.

(c) Filmore Street from the east line of Fifth Avenue to the line of First Street.

(d) Green Street from the east line of Eighth Avenue to the west line First Street, from the east line of First Street to the west line of Tenth Street.

(e) Jefferson Street from the west corporation line to the west line of First Street and from the east line of First Street to the west line of Tenth Street.

(f) Court Avenue from the east line of Eighth Avenue to the west line of First Street and from the east line of First Street to the east line of Tenth Street.

- (g) Washington Street from the east line of Fourth Avenue to the west line of First Street.
- (h) Fremont Street from the east line of Eighth Avenue to the west line of Fourth Avenue.
- (i) Summit Street from the west corporation line to the west line of First Street.
- (j) North Street from the east line of Eighth Avenue to the west line of First Street and from the east line of First Street to the west line of Tenth Street.
- (k) Eighth Avenue from the north corporation line to the north line of Summit Street and from the south line of Summit Street to the north line of Husky Drive.
- (l) Fourth Avenue from the south line of Highway 92/169 to the north line of Buchanan Street, from the south line of Court Avenue to the north line of Summit Street, and from the south line of Summit Street to the south corporation line.
- (m) South Street from the east line of First Street to the west line of Fourth Street and from the east line of Fourth Street to the west line of Ninth Street.
- (n) First Street and any north or south extensions thereof from the north intersection of Highway No. 92 and Highway 169 to the south corporation line.
- (o) Second Street from the south line of South Street to the north line of Old Buffalo Road (formerly Highway 169).
- (p) Fourth Street from the south line of Court Avenue to the south line of Summit Street.
- (q) Ninth Street from the south line of Court Avenue to the south line of South Street.
- (r) Tenth Street from the north corporation line to the north line of Court Avenue.
- (s) Washington Street from the West intersection line with Fourth Avenue to the East intersection line of Eighth Avenue; and Washington Street from the West intersection line with Tenth Avenue to the East intersection line of Sixteenth Avenue.

6.409. AUTHORITY TO ERECT STOP OR YIELD SIGNS. Whenever any

ordinance of this City designates a through street, the Mayor shall cause to be placed and maintained a stop or yield sign as traffic conditions may require on each and every non-through street intersecting such through street.

6.410. STOP OR YIELD AT INTERSECTING THROUGH STREETS AND OTHER INTERSECTIONS. At the intersections of two through streets or of two non-through streets, the Mayor is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to any such intersection and to make recommendations to the City Council for adoption of an implementing ordinance. Upon passage of such ordinance for such stop or yield device at such intersection, the Mayor shall cause to be erected stop or yield signs as required by said ordinance.

6.411. SPECIAL STOP SIGNS. Stop signs have been erected at certain entrances to the following intersections as indicated.

- (a) Jefferson Street and Eighth Avenue at all entrances to the intersection.
- (b) Washington Street and Second Street at the north and south entrances to the intersection.
- (c) Grade Street and Third Street at the east entrance and the west entrance to the intersection.
- (d) Summit Street and Third Street at the intersection controlling the east-west traffic.
- (e) Third Avenue and Hutchings Street at the east and west entrances to the intersection.
- (f) South Street and Second Avenue at the west entrance to the intersection.
- (g) Washington Street and Tenth Avenue at the east entrance to the intersection.
- (h) Second Avenue and West Washington Street at the intersection controlling east-west traffic thereof.
- (i) Husky Drive and Eight Avenue at the North and the West and the East entrances to the intersection.
- (j) Husky Drive and Seventh Avenue at the north entrance to the intersection.
- (k) East Jefferson Street and Second Street at the intersection

controlling the east-west traffic thereof.

(l) West Mills Street and Fourteenth Avenue at the intersection controlling the east-west traffic thereof.

(m) West Mills Street and Fifteenth Avenue at the intersection controlling the North bound traffic thereon.

(n) Madisyn Circle and Fifteenth Avenue at the intersection controlling the East bound traffic thereon.

(o) Mackensie Circle and Fifteenth Avenue at the intersection controlling the East bound traffic thereon.

(p) West Mills Street and Ninth Avenue controlling the North bound traffic thereon.

(q) First Avenue and Court Avenue at all entrances to the intersection.

(r) First Avenue and Jefferson Street at all entrances to the intersection.

(s) Second Avenue and Court Avenue at all entrances to the intersection.

(t) Second Avenue and Jefferson Street at all entrances to the intersection.

(u) Second Street and Court Avenue at all entrances to the intersection.

(v) Wambold Drive and the connecting street to US Highway 92 at the intersection controlling the east-west traffic thereof.

6.412. SPECIAL YIELD SIGNS. Yield signs have been erected at certain entrances to the following intersections as indicated:

(a) South First Avenue and High Street at the east entrance to the intersection.

(b) Buchanan Street and Sixth Avenue at the south entrance to the intersection.

(c) Short Street and Seventh Avenue at the east and west entrance to the intersection.

(d) Grade Street and Second Avenue at the east entrance to the intersection.

(e) Washington Street and Tenth Avenue at the west

entrance to the intersection.

(f) Washington Street and Third Street controlling the north and south traffic.

(g) Buchanan Street and Second Street controlling the north and south traffic.

(h) Filmore Street and Second Street controlling the north and south traffic.

(i) Court Avenue and Tenth Avenue at the east entrance to the intersection.

(j) South Street and First Avenue at the east entrance to the intersection.

(k) Buchanan Street and First Avenue controlling the north and south traffic.

(l) Benton Street and First Avenue controlling north and south traffic.

(m) South Street and Tenth Avenue at the west entrance to the intersection.

(n) Buchanan Street and Sixth Street at the north and south entrance to the intersection.

(o) South Street and Third Avenue at the north entrance to the intersection.

(p) Hutchings Street and Seventh Avenue controlling the east and west traffic.

(q) Benton Street and Third Avenue controlling the north and south entrances to the intersection.

(r) South First Avenue and Grade Street at the intersection controlling the east-west traffic thereof.

(s) West Benton Street and Ninth Avenue at the intersections controlling the North bound and the South bound traffic thereon.

(t) Eleventh Avenue Circle and West Mills Street controlling the North bound traffic.

(u) Annie Drive and West Mills Street controlling the South bound traffic.

(v) Dale Drive and West Mills Street controlling the South bound traffic.

(w) Sixth Avenue Circle and West Mills Street controlling the North bound traffic.

6.413. APPROACHING STOP INTERSECTIONS. When the driver of a vehicle approaches the entrance to an intersection where a stop sign is erected, the driver shall first bring the vehicle to a complete stop at the entrance to such intersection and, after bringing the vehicle to a complete stop, proceed cautiously yielding to vehicles not so obligated to stop which are within the intersection or approaching so closely as to constitute a hazard.

6.414. APPROACHING YIELD INTERSECTIONS. When the driver of a vehicle approaches the entrance to an intersection where a yield sign is erected, the driver shall slow down to a speed reasonable for the existing conditions or shall stop, if necessary, to yield the right of way to any vehicle in the intersection or approaching so closely as to constitute a hazard. The driver having so yielded may then proceed through the intersection with caution.

6.415 STOP WHEN TRAFFIC IS OBSTRUCTED. 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 being operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

6.416. SCHOOL ZONES. School zones are hereby established at the intersection of Fourth Avenue and West South Street; at the intersection of West Summit Street and South Third Avenue; at the intersection of West Summit Street and South Fourth Avenue; at the intersection of West Summit Street and South Eighth Avenue; at the intersection of South John Wayne Drive and High Street; at the intersection of South Seventh Avenue and Husky Drive; and, at the intersection of First Avenue and West Washington Street. Police officers, school authorities or persons authorized by them are authorized to place movable stop signs in the street in any school zone and no movable stop sign shall be placed or removed from the street except by authorized persons. When the driver of a vehicle approaches a movable stop sign placed within a school zone, the driver shall bring such vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by a movable stop sign, and thereafter proceed slowly and in a careful and prudent manner until the driver shall have passed such school site.

6.417. STREETS RESTRICTED TO CERTAIN THROUGH TRUCK TRAFFIC. No through truck traffic of vehicles having a gross weight in excess of 7 tons shall be allowed upon the following streets:

Third Street between East Benton and East Lane Street, and East Lane Street between Third Street and Tenth Street.

6.418. "U" TURNS. It shall be unlawful for the motor vehicle operator to make a "U" turn upon any City street right-of-way, except within a street intersection, provided, however, that "U" turns are prohibited at all intersections within the DC Downtown Commercial Zoning District and at all intersections having automatic traffic control devices and/or signals. The term "U" turn shall mean a motor vehicle changing the direction of travel by entering the on-coming lane of traffic between street intersections for a purpose other than to enter a public alley, other public right-of-way, a private driveway or driveway entrance, or public or private off-street parking lot.

6.419. 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 he shall proceed into the sidewalk area only when he can do so without danger to pedestrian traffic and he shall yield the right of way to any vehicular traffic on the street into which his vehicle is entering.

6.420. STOP BEFORE ENTERING FROM PRIVATE DRIVE. The driver of a vehicle about to enter or cross a highway from a private road or driveway shall stop such vehicle immediately prior to driving on said highway and yield the right of way to all vehicles approaching on said highway.

6.421. SPECIAL TRAFFIC CONTROL DEVICES. Traffic control devices shall be erected or posted at certain entrances to the following intersections as indicated:

<u>TRAFFIC CONTROL DEVICES</u>	<u>LOCATION</u>
a. Do Not Enter	West Washington Street and Second Avenue at the South entrance to the intersection.
b. Do Not Enter	West Grade Street and Second Avenue at the North entrance to the intersection.
c. Do Not Enter	West South Street and Third Avenue at the East entrance to the intersection.

These traffic control devices shall control all traffic except authorized school transportation vehicles during the hours 7:30 o'clock a.m. to 8:30 o'clock a.m. and 2:45 o'clock p.m. to 3:30 o'clock p.m. on Monday through Friday of each week except those calendar days when school is not in session or at times when school is dismissed early.

Wherever by this Chapter traffic is regulated on the designated streets or portion of the streets, it shall be the duty of the Mayor

to cause the appropriate traffic control devices to be posted giving reasonable notice thereof and these regulations shall not be effective unless these devices are posted and in place at the time of any alleged offense. When the traffic control devices are so posted given reasonable notice thereof, no person shall disobey the restrictions stated on the devices.

#### 6.422.1 RIGHT TURN ONLY ON TURNING LANES

a. Turning lanes on the following streets are hereby established as indicated:

1. The right lane of First Street for northbound traffic from the alley between East South Street and East Washington Street North to the intersection with East Washington Street;

2. The right lane of First Street for southbound traffic from the alley between East Court Avenue and East Washington Street South to the intersection with East Washington Street;

3. The right lane of First Street for northbound traffic from the alley between East Jefferson Street and East Green Street to the intersection with East Green Street; and

4. The right lane of First Street for southbound traffic from the alley between East North Street and East Green Street to the intersection with East Green Street.

b. The driver of a vehicle who is at or approaching an intersection with a right turn lane as herein established and who makes a right turn at the intersection shall use the right turn lane for this right turn.

c. The right turn lane herein established shall be used exclusively for right turns only. The driver of a vehicle shall not use the right turn lane herein established to proceed through the intersection.

d. On all streets having right turn lanes at intersections as herein established, the driver of a vehicle shall not make a right turn at the intersection from the left or through lane of traffic on the street.

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- 6.501 SPEED LIMITS
- 6.502 MINIMUM SPEED REGULATIONS
- 6.503 EMERGENCY VEHICLES - SPEED
- 6.504 SPEED LIMITS ON CERTAIN STREETS

6.501. SPEED LIMITS. Except as hereafter provided, the following shall be the lawful speed and any speed in excess thereof shall be unlawful:

- (a) 20 miles per hour in any business district
- (b) 25 miles per hour in any residence or school district
- (c) 45 miles per hour in any suburban district
- (d) 15 miles per hour in the Winterset City Park, the Winterset Waterworks, and all roads and streets at Cedar Lake Park.

6.502. MINIMUM SPEED REGULATIONS. 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. Peace officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith the continued slow operation by a driver shall be a violation of this Title.

6.503. EMERGENCY VEHICLES-SPEED. The speed limitations set forth in this chapter shall not apply to authorized emergency vehicles when responding to emergency calls and being operated in accordance with the laws of the State of Iowa.

6.504. SPEED LIMITS ON CERTAIN STREETS. The following shall be the lawful speed limit on these designated streets within the City and any speed in excess thereof shall be unlawful:

- a. U.S. Highway 169, also known as First Street and also known as John Wayne Drive: from the intersection with Iowa Highway 92 to a point 2,400 feet north of said intersection, shall have a speed limit of 45 mph; from 2,400 feet north of the intersection with Iowa Highway 92 to a point 3,250 feet north of said intersection, shall have a speed limit of 50 mph; and, from a point 3,250 feet north of the intersection with Iowa Highway 92 to the north corporate limits, shall have a speed limit of 55 mph.

- b. Iowa Highway 92: from the West corporate limits to a point 1,950 feet west of the intersection with U.S. Highway 169, shall have a speed limit of 55 mph; from a point 1,950 feet west of the intersection with U.S. Highway 169 to a point 3,000 feet east of the intersection with U.S. Highway 169, shall have a speed limit of 45 mph; and, from a point 3,000 feet east of the intersection with U.S. Highway 169 to the east corporate limits, shall have a speed limit of 55 mph.
- c. First Street from the intersection with North Street, to the intersection with U.S. Highway 169/Iowa Highway 92, shall have a speed limit of 30 mph.
- d. First Street from its intersection with North Street to its intersection with South Street shall have a speed limit of 20 mph.
- e. First Street from its intersection with South Street to its intersection with Summit Street shall have a speed limit of 25 mph.
- f. First Street from its intersection with Summit Street to its intersection with Third Street shall have a speed limit of 35 mph; and, First Street from its intersection with Third Street to the South City Corporate boundary shall have a speed limit of 45 mph.
- g. Summit Street from its intersection with First Street to its intersection with Fourth Avenue shall have a speed limit of 25 mph.
- h. Summit Street from its intersection with Fourth Avenue to the West City Corporate boundary shall have a speed limit of 35 mph.
- i. Madison Street shall have a speed limit of 25 mph.
- j. Eighth Avenue from its intersection with Husky Drive to its intersection with U.S. Highway 169/Iowa Highway 92 shall have a speed limit of 25 mph.
- k. Eighth Avenue from its intersection with U.S. Highway 169/Iowa Highway 92 to the north City corporate boundary shall have a speed limit of 45 mph.
- l. Tenth Street from its intersection with Court Avenue to its intersection with U.S. Highway 169/Iowa Highway 92 shall have a speed limit of 25 mph.

- m. Tenth Street from its intersection with U.S. Highway 169/Iowa Highway 92 to the north City Corporate boundary shall have a speed limit of 45 mph.
- n. Sixteenth Avenue from its intersection with Summit Street north to its intersection with U.S. Highway 169/Iowa Highway 92 shall have a speed limit of Thirty-five (35) miles per hour.
- o. Court Avenue East of Tenth Street to the east City Corporate boundary shall have a speed limit 35 mph.

6.601 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS  
6.602 ONE-WAY STREETS AND ALLEYS

6.601. AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any street or alley is designated as a one-way street or alley the Mayor shall cause to be placed and maintained signs giving notice thereof and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers, or other devices so placed in accordance with this section.

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

- (a) From north to south in the north-south alley located in the block bordered by Jefferson Street, Second Street, Court Avenue and First Street.
- (b) From east to west in the east-west alley located in the block bordered by Jefferson Street, Second Street, Court Avenue and First Street.
- (c) From west to east in the alley located in the block bordered by Jefferson Street, Second Street, Green Street and First Street.
- (d) From east to west in the east-west alley located in the block bordered by Jefferson Street, Second Avenue, Court Avenue and Third Avenue.
- (e) Mackensie Circle and Fifteenth Avenue for West bound traffic shall only move on the northerly portion of Mackensie Circle from the intersection of these two streets.
- (f) Mackensie Circle and Fifteenth Avenue for East bound traffic shall only move on the southerly portion of Mackensie Circle from the intersection of these two streets.
- (g) Madisyn Circle and Fifteenth Avenue for West bound traffic shall only move on the northerly portion of Madisyn Circle from the intersection of these two streets.

(h) Madisyn Circle and Fifteenth Avenue for East bound traffic shall only move on the southerly portion of Madisyn Circle from the intersection of these two streets.

- 6.701 PROHIBITED CROSSING
- 6.702 PEDESTRIANS ON LEFT
- 6.703 PEDESTRIANS SUBJECT TO SIGNALS

6.701. PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

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

6.703. PEDESTRIANS SUBJECT TO SIGNALS. Pedestrians shall obey traffic-control signals at intersections that are established by this Title.

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- 6.801 PARKING CLOSE TO CURB
- 6.802 SIGNS OR MARKING INDICATING ANGLE PARKING
- 6.803 OBEDIENCE TO PARKING SIGNS OR MARKINGS
- 6.804 STOPPING OR PARKING PROHIBITED
- 6.805 PAINTED CURBING AND ERECTION OF NO PARKING SIGNS
- 6.806 AUTHORITY TO IMPOUND VEHICLES
- 6.807 PARKING-EXCESSIVE SIZE VEHICLES
- 6.808 PARKING PROHIBITED
- 6.809 HANDICAPPED PERSONS-PARKING
- 6.810 SNOW ORDINANCE
- 6.811 NO PARKING - ONE SIDE
- 6.812 PROHIBITED PARKING ON PUBLIC OR PRIVATE PROPERTY
- 6.813 PROHIBITED PARKING ON FIRST STREET ALSO KNOWN AS JOHN WAYNE DRIVE
- 6.814 ENFORCEMENT

6.801. PARKING CLOSE TO CURB. No person shall park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

6.802. SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Mayor, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall cause those streets, or portions thereof, to be marked or signs erected indicating angle parking.

6.803. OBEDIENCE TO PARKING SIGNS OR MARKINGS. Upon these streets, or portions of streets, which have been signed or marked for angle or parallel parking, no person shall park a motor vehicle other than at an angle to or parallel to the curb or edge of the roadway, as indicated by the markings or signs; and, all persons shall park their vehicles within the painted boundaries of said angle or parallel parking space.

6.804. STOPPING OR PARKING PROHIBITED. No person shall stop or park a vehicle of any kind, 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;

- (a) In any public alley, unless the public alley has been closed to through traffic by Resolution of the City Council and the Mayor has directed under Municipal Code Sections 6.401 and 6.404 that public parking in that public alley be authorized; and, except commercial carriers loading or unloading cargo in the Downtown Commercial (DC) Zoning District notwithstanding the provisions of Municipal Code Section 6.808.
- (b) In any private alley in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.
- (c) On a sidewalk
- (d) In front of a public or private driveway
- (e) Within five feet of a fire hydrant
- (f) On a crosswalk
- (g) Within twenty 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 feet of said entrance when properly sign posted.
- (h) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
- (i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (j) At any place where official signs prohibit stopping or parking.

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6.805. PAINTED CURBING AND ERECTION OF NO PARKING SIGNS. The Mayor, as traffic conditions require, may cause curbing to be painted with yellow color or cause signs to be erected prohibiting parking, prohibiting parking between designated hours, imposing a parking time limit or prohibiting the parking of certain types of vehicles. When curbings are so painted or signs so posted, it shall be unlawful for the driver of any vehicle to park a vehicle in violation of the restrictions on such signs or markings.

6.806. AUTHORITY TO IMPOUND VEHICLES. The City is hereby authorized to remove, or have removed, a vehicle from a street, public alley or highway to the nearest storage yard designated by the City under the following circumstances:

- (a) When a vehicle is upon a roadway and is disabled.
- (b) When any vehicle is left unattended upon a street and is illegally parked.

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

6.807. PARKING-EXCESSIVE SIZE VEHICLES. No person shall park any vehicle or trailer nor shall any owner of any vehicle or trailer cause or allow such vehicle or trailer to be parked upon the streets and alleys of the City for more than two hours if such vehicle is licensed for a gross weight of seven (7) tons or more or if the trailer has a total length of Twenty-five feet (25') or more.

No person shall angle park any vehicle that is either over twenty (20) feet in length or licensed for a load over four (4) tons on the following streets:

- (1) Jefferson Street from First Avenue to First Street.
- (2) Court Avenue from Second Avenue to Second Street.
- (3) First Avenue from Jefferson Street to Washington Street.
- (4) First Street from Jefferson Street to Court Avenue.

This section shall not be construed as suspending parking limitations or restrictions which would otherwise be applicable under this Code.

6.808. PARKING PROHIBITED. No person shall park any vehicle or trailer upon the streets and alleys of the City for a period of time longer than 24 hours.

6.809. HANDICAP PERSONS PARKING. Spaces for the parking of motor vehicles being used by the handicapped, either as operator or passenger, shall be provided as required by Chapters 321L of the Code of Iowa or as designated by the Mayor as traffic conditions require. Such spaces must be plainly marked or posted as such and, when so marked or posted, may only be used as hereinafter provided.

Only motor vehicles displaying a handicapped-parking permit approved by the Iowa Department of Transportation may be parked in areas designated for the handicapped. The use of such parking spaces, if located on either public or private property, by a motor vehicle not displaying such a handicapped parking permit; or, by a motor vehicle displaying such a handicapped parking Permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation, other than a person issued a permit or being transported in accordance with Iowa Code Section 321L.2, subsection 1, paragraph "b"; or, by a motor vehicle in violation of Iowa Code Chapter 321L or of the rules adopted by the Iowa Department of Transportation under Iowa Code Section 321L.8, shall be a simple misdemeanor punishable upon conviction by a fine of \$100.00 for each violation. Violation of this section which are admitted shall be charged and collected upon notice of summons as hereinafter provided and no costs or other charges, other than the fine, shall be assessed. Violation which are not paid within 30 days of the date of the offense shall be deemed denied and may be charged by the same summons before the Court the same as other traffic violations under Iowa Code Chapter 805 and court cost shall be assessed.

6.810. SNOW ORDINANCE. Except as to the area within the downtown commercial (DC) zoning district, no persons shall park, abandon or leave unattended any vehicle on any city street, alley, or city owned off-street parking during periods of snow or ice accumulation unless the snow or ice accumulations have been removed or plowed from the city street, alley or parking area and during any period of time when city snow removal operations upon the city streets, alleys and parking areas are in progress. In the area within the downtown commercial (DC) zoning district, no person shall park, abandon or leave unattended any vehicle on any public street, alley, or city owned off-street parking area at any time between the hours of 1:00 A.M. until 5:00 A.M. daily.

Any vehicle parked in violation of this Code Section shall be subject to being towed and impounded; and, their owners or drivers shall be required to pay the reasonable cost of the towing and storage prior to recovering the vehicle as provided by Section 6.806 of this Code.

No person shall at any time place, leave or deposit snow or ice on the traveled portion of any city street or alley, except as to the area within the downtown commercial (DC) zoning district.

Any person who violates this Code Section shall be subject to a fine of \$50.00 plus any court costs for each violation in the manner provided by Section 6.814 of this Code. Under this Code Section each calendar day that a violation occurs shall constitute a separate offense.

6.811. NO PARKING-ONE SIDE. The Mayor, as traffic conditions require, shall designate no parking zones by causing signs to be erected on the South half of streets running generally in an East-West direction within the residential districts and on the East half of streets running generally in a North-South direction within the residential districts. When such signs have been erected, no person shall park, abandon or leave unattended any vehicle on the South half of streets running generally in an East-West direction within the residential districts and on the East half of streets running generally in a North-South direction within the residential districts.

6.812. PROHIBITED PARKING ON PUBLIC OR PRIVATE PROPERTY. No person shall drive, stop, or park in a vehicle onto or upon privately or publicly owned property, or any area developed as an off-street parking facility, contrary to the direction or consent of the owner, lessee or person in charge of such property or facility. The City or its designee pursuant to Section 6.806 of this Code may impound vehicles when stopped or parked in violation of this section.

6.813. PROHIBITED PARKING ON FIRST STREET ALSO KNOWN AS JOHN WAYNE DRIVE. No person shall stop, stand or park any vehicle at any time on First Street also known as John Wayne Drive for either southbound or northbound traffic from the alley between Green Street and North Street North to the North four-way stop sign at the intersection of Highways 169 and 92.

6.814. ENFORCEMENT. A police officer, or other official authorized by the City, upon discovering a vehicle stopped or parked in violation of any provision of this Chapter, shall attach a written summons to such vehicle. The summons shall contain the date and time of the violation, the vehicle license number, location of the vehicle, and the number or name of the police officer or name of other official issuing the summons. The owner or driver of such vehicle within thirty (30) days of the date upon which the violation occurred shall pay to the City a fine of Twenty Five Dollars (\$25.00) for all violations of this Chapter except for the snow route parking violations under Section 6.810 in which case the fine shall be Fifty Dollars (\$50.00) and except for the handicapped parking violations under Section 6.809 in which case the fine shall be One Hundred Dollars (\$100.00). The payment of the fine to the City with thirty (30) days of the date of the violation shall be deemed an admission of the violation and no other costs or charges, other than the fine, shall be collected. Violations which are not paid within thirty (30) days of the date of the violation shall be deemed denied and may be charged by the same summons before the Court the same as other traffic violations under Iowa Code Chapter 805 or cited as a Municipal Infraction under Iowa Code Chapter 364. Court costs shall be assessed against any person found to have committed a violation of this Chapter. All fine amounts shall be increased by Ten Dollars (\$10.00) if not paid within thirty (30) days of the date of the violation.

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6.901	VEHICLES NOT TO BE DRIVEN ON SIDEWALK
6.902	CLINGING TO VEHICLES
6.903	PARKING FOR CERTAIN PURPOSES PROHIBITED
6.904	DRIVING THROUGH FUNERAL OR OTHER PROCESSION
6.905	DRIVERS IN A PROCESSION
6.906	LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS
6.907	PERMITS FOR EXCESS SIZE AND WEIGHT
6.908	RECKLESS DRIVING
6.909	DRAG RACING
6.910	MOTORCYCLES, MOTORBIKES AND MOTOR SCOOTERS PROHIBITED IN CEMETERIES
6.911	HUMAN POWERED WHEELED VEHICLES PROHIBITED ON PUBLIC STREETS AND DOWNTOWN COMMERCIAL DISTRICTS
6.912	EXCESSIVE VEHICULAR NOISE PROHIBITED

6.901. VEHICLES NOT TO BE DRIVEN ON SIDEWALK. The driver of a vehicle shall not drive upon or within any sidewalk area except at an established driveway access.

6.902. CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of said vehicle are inside said 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 human powered wheeled vehicle shall attach the same or themselves to any vehicle upon a roadway.

6.903. PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of (1) displaying such vehicle for sale, (2) for washing, greasing, or repairing such vehicle except such repairs as are necessitated by an emergency, (3) displaying advertising, (4) selling merchandise from such vehicle except in a duly established market place or when so authorized and licensed under the ordinances of this City, (5) storage, or as junkage or dead storage for more than 24 hours.

6.904. DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

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

6.906. LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS. When signs were erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time.

6.907. PERMITS FOR EXCESS SIZE AND WEIGHT. The Police Chief shall, 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 this Title over those streets named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

6.908. RECKLESS DRIVING. Any person who drives any vehicle in such manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving.

6.909. DRAG RACING. No person shall engage in any motor vehicle speed contest or exhibition of speed on any street or highway of this City and no person shall aid or abet any motor vehicle speed contest or speed exhibition on any street or highway of this City, except that a passenger shall not be considered as aiding and abetting. Motor vehicle speed contest or exhibition of speed are defined as one or more persons competing in speed in excess of the applicable speed limit in vehicles on the public streets or highways.

6.910. MOTORCYCLE, MOTORBIKES AND MOTOR SCOOTERS PROHIBITED IN CEMETERIES. No person shall operate a motorcycle, motorbike or motor scooter within any public or private cemetery located within the city limits of the City.

6.911. HUMAN POWERED WHEELED VEHICLES PROHIBITED ON PUBLIC STREETS AND DOWNTOWN COMMERCIAL DISTRICT. No person shall use or operate a human-powered vehicle, except bicycles, upon the portion of any public street traveled by motor vehicles within the City; and, no person shall use or operate any human-powered wheeled vehicle upon or along any sidewalk or alley within the Downtown Commercial (DC) Zoning District of the City.

A peace officer or other designee of the City upon discovering a violation of this section is authorized to issue a written summons to the operator of such vehicle. The summons shall contain the date, time and location of the violation; the identity of the vehicle operator; and, the name or assigned number of the peace officer or designee issuing the summons. Violations of this section which are admitted by the offender shall be charged a fine of two dollars (\$2.00) payable to the City Administrator or designee at City Hall within seventy-two (72) hours of the time of violation. In the event of an admitted violation, no costs or other charges shall be assessed against the offender. All alleged violations for which summons are issued shall be deemed denied unless the fine is paid to the City Administrator or designee within seventy-two (72) hours of the time of violation. Violations of this section which are denied shall be charged and proceed before a court the same as other traffic violations and court costs shall be assessed as provided in Iowa Code Section 805.6, subsection 1, paragraph "a" for parking violation cases.

Notwithstanding any other ordinance, or provisions thereof, these violations may be prosecuted under the provisions of Iowa Code Sections 805.6 to 805.13 or as any other traffic violation.

6.912. EXCESSIVE VEHICULAR NOISE PROHIBITED. No person shall operate a motor vehicle within the corporate limits of the City of Winterset, Iowa so as to accelerate or decelerate the vehicle in such a manner as to cause excessive noise from the friction of the tires of the vehicle on a city street or alley or other hard surfaced areas except when such acceleration or deceleration is reasonable necessary to avoid a collision.

6.913 PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES ("JAKE BRAKE ORDINANCE")

**DEFINITIONS.** "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

**PROHIBITIONS.** It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas within the incorporated areas of the City of Winterset, State of Iowa, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those public highways or portions specifically identified in this Chapter.

**AREAS OF PROHIBITION.** The prohibition set forth herein shall apply to all public roadways and highways within the corporate city limits of the City of Winterset, Iowa.

**SIGNAGE.** Signs stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKE ORDINANCE ENFORCED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this ordinance, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKE ORDINANCE ENFORCED" shall be installed on a state highway without a permit from the Iowa Department of Transportation. The provisions of this ordinance shall be in full force and effect even if no signs are installed.

**EXCEPTIONS.** Emergency vehicles shall be exempt from the application of this ordinance.

**VIOLATIONS.** Any person found guilty of a violation of this section shall, upon conviction, be guilty of a simple misdemeanor punishable by a fine as follows:

First Offense:	\$100.00
Second Offense:	\$200.00
Third and Subsequent Offenses:	\$400.00

Any violation of this Chapter may be prosecuted as a municipal infraction, either in lieu of or in addition to, the criminal prosecution of such violation as a simple misdemeanor.

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6.1001	PENALTY
6.1002	ARREST AND NOTICE TO APPEAR
6.1003	CITATIONS PLACED ON ILLEGALLY PARKED VEHICLE
6.1004	PRESUMPTION IN REFERENCE TO ILLEGAL PARKING

6.1001. PENALTY. Any person violating any of the provisions of this Title shall, upon conviction, be guilty of a simple misdemeanor punishable as provided by law.

6.1002. ARREST AND NOTICE TO APPEAR. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of this Title, such officer may either arrest such person or issue a citation in lieu of arrest all in accordance with the procedures provided in the Code of Iowa. The City or its designee is authorized to use the uniform citation and complaint forms approved by the Iowa Commissioner of Public Safety for any violations of this Title.

6.1003. CITATIONS PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without driver is parked or stopped in violation of this Title, the City or its designee shall attach a written citation to such vehicle in a conspicuous place and the driver of such vehicle shall be held to appear at the time and place designated in the citation.

6.1004. PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a 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:

- (a) The particular vehicle described in the complaint or citation was parked in violation of this Title; and,
- (b) The defendant named in the complaint or citation was the registered owner at the time in question.

**SECTION 1. LOAD AND SIZE LIMITS UPON CERTAIN STREETS.** When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight or size in excess of the amounts specified on such signs at any time upon any streets or parts of streets within the city limits of Winterset where such signs are posted.

**SECTION 2. LOAD AND SIZE LIMITS ON BRIDGES.** Where it has been determined that any bridge within the city limits of Winterset has a load or size capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the City Administrator, or their designee, may cause signs to be posted and maintained on said bridge and at a suitable distances ahead of the entrances thereof to warn drivers of such maximum load and size limits, and no person shall operate a vehicle upon such bridge weighing, loaded or unloaded, in excess of the posted load limits or being of a size in excess of the posted size limits.

**SECTION 3. ESTABLISHMENT OF TRUCK ROUTES.**

- A. **Truck Routes Designated.** 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:
  - i. East Court Avenue from N. 10th Street to Norwood Avenue; and
  - ii. Norwood Ave to State Hwy 92;
- B. **Deliveries Off Truck Route.** 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.
- C. **Truck Route Signage.** Signs shall be posted along all designated truck routes.

**SECTION 4. EXEMPT VEHICLES.** The restrictions of this ordinance shall not apply to the following vehicles:

    Implements of husbandry as defined in Iowa Code Section 321.1(32).

    B. Implements of husbandry, as defined in Iowa Code Section 321.1(32), loaded on hauling units for transporting the implements to locations for repair.

    C. Vehicles moving farm produce to market.

    D. Fire or emergency medical vehicles owned by, under lease to, or used in the performance of a contract with a state or local authority.

    E. Vehicles owned or operated by the city, public utilities or any contractor or material persons, while engaged in the repair, maintenance or construction of streets, public improvements or street utilities within the city limits.

    F. Vehicles authorized to use the streets under a special permit issued by the City Administrator or their designee.

    G. Vehicles, as deemed necessary on an immediate or emergency basis, by the City of Winterset Chief of Police or their designee.

**SECTION 5. SPECIAL PERMIT.** Vehicles may operate on the streets of within the City limits of Winterset in violation of this chapter if a special permit is issued by the City Administrator or their designee. In applying for a special permit, the vehicle operator must provide the City Administrator or their designee, with a written application which states the weight of the vehicle, the date or dates of operation, and the requested route of travel of the vehicle. The City Administrator, or their designee, may grant a special permit, if it is determined that the public will not be endangered and there will not be undue damage or destruction to the City infrastructure, and may impose terms and conditions as part of granting the permit. The charge for the special permit shall be established, and from time to time reviewed and adjusted, by resolution of the Winterset City Council. The vehicle operator shall have the special permit in the vehicle and available for

inspection at all times that the vehicle is operated on the streets with weight and size limitations.

**SECTION 6. EMPLOYER'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.

**SECTION 7. WEIGH IN.** City of Winterset police officers shall have the authority to require any person driving or in control of any vehicle not proceeding over a designated truck route or street over which travel by that vehicle is permitted to proceed to any public scale available for the purpose of weighing and determining whether this section has been violated.

**SECTION 8. SEVERABILITY.** If any portion of this Ordinance shall be held unconstitutional or invalid for any reason, this decision shall not affect the remaining portions of this Ordinance not so declared unconstitutional or invalid.

**SECTION 9. EFFECTIVE DATE.** This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law. Thereafter, this Ordinance shall be included with and be part of the Winterset Municipal Code, as now amended.

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APPENDIX A

EFFECTIVE ORDINANCES VACATING STREETS AND ALLEYS

- ORDINANCE #33 An ordinance vacating a part of East Summit Street along part of the north side of Block 2 of Kirkwood Addition to the City of Winterset, Iowa, and the alley running north and south through Block 2 of Kirkwood Addition to the City of Winterset, Iowa, and providing for conveyance to the State of Iowa of the real estate vacated.
- ORDINANCE #63 An ordinance vacating West High Street between the west line of South First Avenue and the east line of South Second Avenue in the City of Winterset, Iowa.
- ORDINANCE #66 An ordinance vacating the part of the alley running east and west through Block Two (2) of Wilsey's Addition to the City of Winterset, Iowa, which lies between Lots 3 and 4 on the north side thereof, and Lots 5 and 6 on the south side thereof.
- ORDINANCE #70 An ordinance vacating the part of East High Street between the west line of South Ninth Street and the east line of South Eighth Street in the City of Winterset, Iowa.
- ORDINANCE #105 An ordinance vacating the part of East Adair Street between Lot 8 in Block 2 and Lot 2 in Block 3 of Kirkwood's Addition, and the part of Arnold Street between Lots 1 and 2 in Block 2 and Lots 1 and 2 in Block 3 of Jenkins Addition in the City of Winterset, Iowa.
- ORDINANCE #107 An ordinance vacating the part of Arnold Street which lies between Lots 3, 4 and 5 in Block 2, and Lots 3, 4 and 5 in Block 3 of Jenkins Addition in the City of Winterset, Iowa.
- ORDINANCE #109 An ordinance vacating the part of East Summit Street which lies between the east line of South Fourth Street and the east line of South Fifth Street, including the intersection of East Summit Street and South Fifth Street, in the City of Winterset, Iowa.
- ORDINANCE #116 An ordinance vacating the alley running east and west through Block 2 of Pitzer and Knight's Addition in the City of Winterset, Iowa.
- ORDINANCE #121 An ordinance vacating the alley running north and south in Block 17 of West Addition, in the City of Winterset, Iowa, between Lots 5, 6 and 7 on the west side of said alley and Lots 10, 9 and 8 on the east side of said alley, in said block.

- ORDINANCE #124 An ordinance vacating the alley running north and south in Block 6 of West Addition in the City of Winterset, Iowa.
- ORDINANCE #155 An ordinance vacating the alley running north and south through Block 2 of Adkison's Addition to the Town of Winterset, Iowa.
- ORDINANCE #176 An ordinance vacating Arnold Street running between Third and Fourth Avenues between Blocks Two and Three of Jenkins Addition to the Town of Winterset, Iowa.
- ORDINANCE #188 An ordinance vacating the east-west alley running between Ninth and Tenth Streets in Block Four (4) of Danforth's Second Addition to Winterset, Madison County, Iowa.
- ORDINANCE #193 An ordinance vacating the East 254 feet of the east-west street extending between First Street and First Avenue across the South 50 feet of the real estate described as Commencing at a point 33 feet West and 276 feet North of the Southeast corner of the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of Section 36, in Township 76 North, Range 28 West of the 5th P. M. and running thence West 314 feet, thence North 384 feet, thence East 314 feet, thence South 384 feet, to the point of beginning.
- ORDINANCE #194 An ordinance vacating Arnold Street running between Second Avenue and Third Avenue and between Blocks One (1) and Four (4) of Jenkins Addition to the Town of Winterset, Iowa.
- ORDINANCE #209 An ordinance vacating a portion of First Avenue and vacating the north-south alley in Block Three (3) and the north-south alley in Block Four (4) of Hornback and Bevington's Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #215 An ordinance vacating the east-west alley in Block Three of Wilsey's Addition to the City of Winterset, Iowa.
- ORDINANCE #241 An ordinance vacating Adair Street between Lot One (1) in Block Four (4) and Lot Eight (8) in Block One (1) of Kirkwood's Addition to the City of Winterset, Iowa.
- ORDINANCE #280 An ordinance vacating alley located in Block Five (5) of the West Addition to the City of Winterset, Iowa.
- ORDINANCE #282 An ordinance vacating alley located in Block Two (2) of Hornback and Bevington Addition to the City of Winterset, Iowa.

ORDINANCE #385

The East-West alley located in Block Ten (10) of Laughridge & Cassiday's to the City of Winterset, Madison County, Iowa, is hereby vacated.

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APPENDIX B

EFFECTIVE ORDINANCES ESTABLISHING AND CHANGING STREET,  
ALLEY AND SIDEWALK GRADES

- CHAPTER XVIII - An ordinance in relation to grades on streets, avenues, highways, and alleys in the City of Winterset, Iowa.
- ORDINANCE #131 An ordinance to establish or re-establish the curb grades on certain streets and avenues within the city of Winterset, Iowa, and repealing all ordinances or parts of ordinances in conflict herewith.
- ORDINANCE #133 An ordinance to establish or re-establish the curb grades on certain streets and avenues within the city of Winterset, Iowa, and repealing all ordinances or parts of ordinances in conflict herewith.
- ORDINANCE #156 An ordinance establishing a street grade on West Jefferson Street, West from 8th Avenue, in the city of Winterset, Iowa.
- ORDINANCE #157 An ordinance repealing Section 50 of Chapter XVIII of the Revised Ordinances of the city of Winterset, Iowa, of 1931, and establishing a street grade on South Fourth Avenue, south from Summit Street, in the city of Winterset, Iowa.
- ORDINANCE #164 An ordinance in relation to grades on certain streets and avenues in the city of Winterset, Iowa.
- ORDINANCE #167 An ordinance establishing certain street grades.
- ORDINANCE #170 An ordinance in relation to grades on certain streets and avenues in the city of Winterset, Iowa.
- ORDINANCE #172 An ordinance in relation to grades on a certain portion of West Buchanan Street in the city of Winterset, Iowa.
- ORDINANCE #174 An ordinance in relation to grades on certain streets and avenues in the city of Winterset.
- ORDINANCE #192 Establishing permanent grades on portions of the following designated streets and avenues in the city of Winterset, Iowa.
- ORDINANCE #201 An ordinance repealing Ordinance No. 200 of the Ordinances of the City of Winterset, Iowa, and establishing the datum plane and bench marks from which streets and sidewalks shall be measured.

- ORDINANCE #210 An ordinance establishing permanent grades on portions of the following designated streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #233 An ordinance establishing grades on certain streets and alleys in the City of Winterset, Iowa.
- ORDINANCE #246 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #279 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #284 An ordinance establishing grades on W. Benton Street extension in the City of Winterset, Iowa.
- ORDINANCE #312 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #322 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #341 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #371 An ordinance establishing grades on certain streets and avenues in the City of Winterset, Iowa.
- ORDINANCE #404 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.
- ORDINANCE #450 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.
- ORDINANCE #482 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.
- ORDINANCE #501 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.
- ORDINANCE #518 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.
- ORDINANCE #536 An ordinance establishing grades on certain streets and Avenues in the City of Winterset, Iowa.

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## APPENDIX C

### EFFECTIVE MISCELLANEOUS ORDINANCES

- ORDINANCE #166 An ordinance fixing and establishing controlled access facilities and regulation of traffic on the Primary Road NO. Iowa 92 within the City of Winterset, Iowa, described as follows: From the north jct. U. S. 169 and Iowa 92 (station 2+02); thence north and east to the north corporation line (station 21+07.1); thence along the north corporation line to the east corporation line (station 40+08). Also from the west corporation line (station 617+07) thence east 1893 ft. to station (636+00), a point near Fourth Avenue.
- Regulating ingress or egress from and across such controlled-access facilities to or from abutting land, designating points at which access may be permitted, regulating traffic, and providing penalties for the violations thereof.
- ORDINANCE #205 An ordinance providing for the issuance of sewer construction bonds.
- ORDINANCE #216 An ordinance establishing connection fees for connection to the trunk sanitary sewer main extending west on the north side of Summit from Seventh Avenue, thence north to Tenth Avenue.

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APPENDIX D

EFFECTIVE ORDINANCES RECLASSIFYING LAND

ORDINANCE #408 An Ordinance reclassifying Lot Two (2) of Block Thirty-one (31) of the Original Town of Winterset, from R-2 Residential to Commercial land use Zoning District.

ORDINANCE #415 An Ordinance Reclassifying A parcel of land located in the Southwest Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th Principal Meridian, Madison County, Iowa, more particularly described as follows:

Commencing at the South Quarter Corner of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa; thence, along the West line of the Southeast Quarter ( $\frac{1}{4}$ ) of said Section Thirty-one (31), North 00 $\square$ 00'00" 481.96 feet to the Point of Beginning; thence, continuing along said West line, North 00 $\square$ 00'00" 633.95 feet; thence North 89 $\square$ 55'23" East 346.79 feet; thence South 02 $\square$ 31'14" East 637.35 feet; thence North 89 $\square$ 38'45" West 374.82 feet to the Point of Beginning. Said parcel of land contains 5.262 acres.

A parcel of land located in the Southwest Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th Principal Meridian and in the Northwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) of Section Six (6), Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th Principal Meridian, all in Madison County, Iowa, more particularly described as follows:

Beginning at the South Quarter Corner of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa; thence, along the West line of the Southeast Quarter ( $\frac{1}{4}$ ) of said Section Thirty-one (31), North 00 $\square$ 00'00" 481.96 feet; thence South 89 $\square$ 38'45" East 257.81 feet; thence South 09 $\square$ 29'59" West 902.63 feet; thence South 90 $\square$ 00'00" West 118.44 feet to the West line of the Northeast Quarter ( $\frac{1}{4}$ ) of Section Six (6), Township Seventy-five (75) North, Range Twenty-seven (27) West; thence, along said West line, North 01 $\square$ 20'34" East 410.00 feet to the Point of Beginning. Said parcel of land contains 3.796 acres, from A-Agriculture to C-Commercial land use Zoning District.

ORDINANCE #416 An Ordinance reclassifying Lots Six (6), Seven (7) and Eight (8) in Block Nine (9) of the Original Town of Winterset, Madison County, Iowa, from C-Commercial to R-3 Residential land use Zoning District.

ORDINANCE #420 An Ordinance Reclassifying Land Use from the C-Commercial Zoning District to the I-Industrial Zoning District as follows:

Parcel "C" located in the Northeast Fractional Quarter (NE Fr.  $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th of P.M., City of Winterset, Madison County, Iowa, more particularly described as follows:

Beginning at the Southwest Corner of Lot Ten (10), Block Two (2) of Watts and Corkrean Addition, City of Winterset, Madison County, Iowa; thence, along the South line of the Northeast Fractional Quarter (NE Fr.  $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M., North 88 $\square$ 37'00" West 241.50 feet; thence North 00 $\square$ 31'02" East 290.41 feet; thence South 88 $\square$ 37'00" East 241.95 feet to the Northwest corner of said Lot Ten (10); thence South 00 $\square$ 36'24" West 290.40 feet to the Point of beginning. Said Parcel "C" contains 1.611 acres.

ORDINANCE #459 An Ordinance reclassifying Lots Two (2), Three (3) and Four (4) in Block Sixteen (16) of the Original Town of Winterset, Madison County, Iowa

ORDINANCE #463 An Ordinance reclassifying Lots 1 and 3 of the Lanny Wenck Addition to the City of Winterset, Madison County, Iowa, plus the North 60 feet of a parcel of land commencing at the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 36, Township 76 North, Range 28 West of the 5th PM, Madison County, Iowa, thence North 89 $\square$ 33'00" West 347 feet; thence North 00 $\square$ 00'00" 132 feet to the point of beginning: thence North 89 $\square$ 33'00" West 302.8 feet; thence North 01 $\square$ 44'36" West 292.88 feet; thence South 89 $\square$ 33'00" East 312.05 feet; thence South 00 $\square$ 00'00" to the point of beginning.

ORDINANCE #464      The South Half ( $\frac{1}{2}$ ) of the Northwest Quarter (1/4) of the Northwest Quarter (1/4) of the Northeast Quarter (1/4) of Section Thirty six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, except Lot One (1) of Northwest Development Plat-2, said Lot One (1) more particularly described as: Commencing at the North Quarter Corner of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa; thence South 00 $\square$ 00'00" 394.06 feet along the West line of the Northeast Quarter (1/4) of said Section Thirty-six (36); thence South 90 $\square$ 00'00" East 50.00 feet to the point of Beginning; thence South 00 $\square$ 00'00" 270.00 feet, thence South 89 $\square$ 43'03" East 300.00 feet along the North line of the Northwest Development Plat I; thence North 00 $\square$ 00'00" 270.00 feet; thence North 89 $\square$ 43'03" West 300.00 feet to Point of Beginning, said excepted parcel of land containing 80,999 square feet.

ORDINANCE #467      An Ordinance reclassifying the following described real estate to R-2 Residential Zoning District, to-wit: East 132 feet of the North 135 feet of Lot 20 of the Original Out Lots South Addition to the City of Winterset, Madison County, Iowa.

ORDINANCE #474      An Ordinance reclassifying Block Four (4) of the Original Town of Winterset, Madison County, from I-Industrial Zoning Classification to C-Commercial Zoning District Classification.

ORDINANCE #475      An Ordinance reclassifying Lots One (1), Two (2), Three (3), Four (4) and Five (5) of Block Nine (9) of the Original Town of Winterset, Madison County, Iowa from C Commercial Zoning Classification to R-2 Residential Zoning District.

AND

An Ordinance reclassifying Lots Five (5), Six (6), Seven (7), and Eight (8) of Block Five (5) of the Original Town of Winterset, Madison County, Iowa from C Commercial Zoning Classification to the R-2 Residential Zoning District.

ORDINANCE #476      An Ordinance reclassifying Lots One (1) and Two (2) of Block Twenty-one (21) of Pitzer and Knight Addition to the City of Winterset, Madison County, Iowa;

ORDINANCE #478      An Ordinance reclassifying Lot Four (4) of Block Eleven (11) of the Laughridge and Cassiday's Addition to the Town of Winterset, Madison County, Iowa;

- ORDINANCE #479 An Ordinance reclassifying Lot Three (3), Four (4), Five (5) and the West Half (W½) of Lot Six (6) of Block Ten (10) of the Laughridge and Cassiday's Addition to the Town of Winterset, Madison County, Iowa;
- ORDINANCE #480 An Ordinance reclassifying Lot Two (2) of the Replat of Corkrean & Watts Addition Plat No. 1, an Addition to the City of Winterset, Madison County, Iowa;
- ORDINANCE #484 An Ordinance reclassifying Lots 1 & 2, Block 1, Kellison an Keeling Addition to the City of Winterset, Madison County, Iowa
- ORDINANCE #486 An Ordinance reclassifying Lots 4 & 5 in Block 3, and the S. 36 feet of Lots 4 & 5 in Block 2, Jenkins Addition to the City of Winterset, Madison County, Iowa; and a tract commencing at the Southwest corner of said Lot 5 in Block 2 of Jenkins Addition, thence South 60 feet, thence East 132 feet, thence North 60 feet to the Southeast corner of said Lot 4, thence West 132 feet to the point of beginning. (Area formerly known as Arnold Street between Lots 4 & 5 in Block 2, and Lots 4 & 5 in Block 3, Jenkins Addition to the City of Winterset, Madison County, Iowa.)
- ORDINANCE #487 An Ordinance reclassifying Lot Five (5) and the West Sixteen (16) feet of Lot Six (6) in Block Twenty-six (26) of the Original Town Plat of Winterset, Madison County, Iowa.
- ORDINANCE #500 An Ordinance reclassifying Lot Six (6) and Seven (7) of Block Four (4) of the Guiberson's Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #502 An Ordinance reclassifying South Half (S2) of the Southwest Quarter (SW3) of the Southwest Quarter (SW3); and, the South Half (S2) of the Southeast Quarter (SE3) of the Southwest Quarter (SW3), except the East 330 feet thereof; in Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa.
- AND:
- A parcel of land described as commencing at the Southeast corner of Section 35, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa; thence North 0107'48" West 60 feet along the East line of said Section 35 to the point of beginning; thence West 264.68 feet along the North right of way line of old Iowa Highway No. 92 to a property line fence recorded as being 270 feet West of the East line of said Section 35; thence North 01103'34" West 489 feet; thence South 88157'57" East 272.68 feet to the East line of said Section 35; thence South 0107'48" East 484 feet to the point of beginning.

- ORDINANCE #508 An Ordinance reclassifying Lot Three (3) of Block One (1) of the Danforth First Addition to the Town of Winterset, Madison County, Iowa.
- ORDINANCE #513 An Ordinance reclassifying Lots Six (6) of C & C Allen's Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #520 An Ordinance reclassifying Lot Two (2) of Plat No. 3 of the Helen McCall Huntoon Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #521 An Ordinance reclassifying Lots Three (3), Four (4), Five (5) and Six (6) of Block Nineteen (19) of the Original Town of Winterset, Madison County, Iowa.
- ORDINANCE #522 An Ordinance reclassifying A parcel of land in the North Half of the Northwest Quarter of the Southeast Quarter of Section 1, Township 75 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa more particularly described as follows: Commencing at the Northeast Corner of the Northwest Quarter of the Southeast Quarter of Section 1, Township 75 North, Range 28 West of the 5th P.M., City of Winterset, Madison County, Iowa thence South 00°13'44" West 655.10 feet along the East line of said Northwest Quarter of the Southeast Quarter to the Point of Beginning; thence North 89°26'17" West 546.40 feet along the South line of the North Half of said Northwest Quarter of the Southeast Quarter; thence North 00°09'45" West 330.00 feet; thence South 89°26'25" East 548.66 feet to the East line of said Northwest Quarter of the Southeast Quarter; thence South 00°13'44" West 330.00 feet to the Point of Beginning. Said parcel is made up of a Lot, which contains 3.791 acres and South 4th Avenue right-of-way, which contains 0.357 Acres.
- ORDINANCE #524 An Ordinance reclassifying Lots One (1), Two (2), Three (3) and Four (4) of Block One (1) of Birchwood Estates Plat No. 1 Addition to the City of Winterset, Madison County, Iowa.

And:

Lot Five (5) of Block One (1) and Lots One (1), Two (2) and Four (4) of Block Six (6) of Birchwood Estates Plat No. 1 Addition to the City of Winterset, Madison County, Iowa.

And:

Lot Ten (10) of Block Five (5) and Lots Three (3) and Five (5) of Block Six (6) of Birchwood Estates Plat No. 1 Addition to the City of Winterset, Madison County, Iowa.

- ORDINANCE #526 An Ordinance reclassifying Lot 15 of the C & C Allen Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #531 An Ordinance reclassifying Lots Five (5), Six (6), Seven (7) and Eight (8) of Block Thirty-two (32) in the Original Town of Winterset, Madison County, Iowa; and, Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8) of Block Three (3) in Bowlsby's Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #534 An Ordinance reclassifying The West 44 rods in width of the Northeast Fractional Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of Section Six (6), in Township Seventy-five (75) North, Range Twenty-Seven (27) West of the 5th P.M, Madison County, Iowa, EXCEPTING there from a tract described as follows: Commencing at the Southwest Corner of said Northeast Fractional Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ), running thence North 44 rods, thence East 8 rods, thence South 44 rods, thence West 8 rods to the place of beginning; and ALSO EXCEPTING a strip 30 feet in width along the entire North line of said excepted tract; AND EXCEPT Parcel "A" located in the West 44 rods of the Northeast Fractional Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of said Section Six (6) containing 2.00 acres, as shown in Plat of Survey filed Book 2, Page 388 on February 16, 1999, in the Office of the Recorder of Madison County, Iowa.
- ORDINANCE #537 An Ordinance reclassifying The West 900 feet in width of the South Half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) and the Southeast triangular half of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section Eighteen (18), and the South east Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) and East half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) and West Half ( $\frac{1}{2}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) and East Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) and Northeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) and Northwest triangular half of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) and North 3/4 of the East Half ( $\frac{1}{2}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and East Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and East Half ( $\frac{1}{2}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and North Half ( $\frac{1}{2}$ ) of The Southwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and Southwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and Northwest triangular half of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ), and a tract commencing at the Northeast corner of the South Half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ), thence West 500 feet, thence Southeast to a point 100 feet South of the Southeast corner of said Northeast Quarter ( $\frac{1}{4}$ ), thence North to the point of beginning, of Section Nineteen (19), and all that part of the South Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of Section Twenty (20) lying

Northerly and Westerly of the center line of the existing highway, containing 1.78 acres, more or less, and more particularly described as follows: Beginning at the Northwest corner of the South Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), thence Easterly 568.0 feet along the Northerly line of the South Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20) to a point on the center line of the existing highway, thence at an angle of  $116^{\circ} - 53'$  to the right from the line last described a distance of 60.6 feet to a point on the center line of said highway, thence at an angle of  $26^{\circ} - 49'$  to the right from the line last described a distance of 81.3 feet to a point on the center line of said highway, thence at an angle of  $22^{\circ} - 52'$  to the right from the line last described a distance of 149.8 feet to a point on the center line of said highway, thence at an angle of  $4^{\circ} - 05'$  to the right from the line last described a distance of 333.0 feet to a point on the center line of said highway which point is also on the Westerly line of said Section Twenty (20), thence Northerly a distance of 191.9 feet along the Westerly line of said Section Twenty (20) to the place of beginning, and a tract of land containing approximately 3.96 acres, more or less, being described as all that part of the East half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), lying North and West of the existing road, as now established, except a triangular shaped parcel of land in the Northeast corner of said East Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), described as follows: beginning at the Northeast corner of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), thence along the East and West center line of said Section Twenty (20) Westerly for a distance of 183.5 feet, thence Southeasterly for a distance of 394.9 feet, to the East line of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), thence Northerly for a distance of 352.0 feet along said East line to the point of beginning, and the West 800 feet in width of the North Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) and West Half ( $\frac{1}{2}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) and West Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) and the West Half ( $\frac{1}{2}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Section Twenty (20), all in Township Seventy-six (76) North Range Twenty-seven (27) West of the 5<sup>th</sup> P.M., Madison County, Iowa.

- ORDINANCE #538 An Ordinance reclassifying The Southeast Quarter ( $\frac{1}{4}$ ) of Section 18 excepting there from the Southeast Half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of said Southeast Quarter ( $\frac{1}{4}$ ) and the West 900 feet of the South Half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of said Southeast Quarter ( $\frac{1}{4}$ ); AND the Northwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) and the West Half ( $\frac{1}{2}$ ) of the Southwest Quarter ( $\frac{1}{4}$ ) of the Northwest Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) of Section 19: ALL in Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa.
- ORDINANCE #542 An Ordinance reclassifying East Half (E $\frac{1}{2}$ ) of Lot 7 and Lot 8, Block 33 of Original Town, City of Winterset, Madison County, Iowa.
- ORDINANCE #546 An Ordinance reclassifying West 108.915 feet of Lot 9 of Lindsey's Addition to the City of Winterset, Madison County, Iowa, except the north 6 feet thereof.
- ORDINANCE #551 An Ordinance reclassifying All that part of Northwest Quarter of the Southeast Quarter of Section Thirty-one (31), Township Seventy-six (76) North, Range Twenty-seven (27), West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa, lying North of the public highway running East and West through said forty-acre tract and connecting with Court Avenue in Winterset, Iowa, and South of the right-of-way of the Chicago, Rock Island & Pacific Railway Company (excepting there from a tract 30 feet in width off of the West side thereof and a tract 550 feet in width off of the East side thereof) and excepting from the above described tract 175 feet in length from East to West and 100 feet in width from North to South lying in the Northwest corner thereof, and also excepting a tract described as follows: Commencing at a point 10 feet South of the point of intersection of the South line of Jefferson Street in Winterset, Iowa, extended East, with the west line of said Northwest Quarter of the Southeast Quarter, running thence East 8 rods, thence North 10 rods, thence West 8 rods thence South 10 rods to the place of beginning, subject to easement for railroad right-of-way purposes and for use as railroad right-of-way in the following described tract, to-wit: beginning at a point 550 feet West of and 198 feet South of the Northeast corner of the West Half of the Southeast Quarter of said Section Thirty-one (31), thence West 150 feet, thence Southeasterly 212.14 feet, more or less, the West line of the East 550 feet of the West half of the Southeast Quarter of said Section 31, thence North 150 feet to the place of beginning; And also excepting the East 233 feet of the entire primary tract above described; And also excepting the following described tract; Beginning at a point 298.0 feet South of the Northwest corner of the Southeast Quarter of said Section Thirty-one (31), thence East 113.0 feet, thence South 281.25 feet, thence West 113.0 feet, thence North 281.25 feet to the point of beginning, and continuing 0.54 acres, more or less, exclusive and excepting there from a tract 30.0 feet in width off of the West side thereof for road purposes;

And also excepting the following described tract; Commencing at the northwest corner of the Southeast Quarter of said Section Thirty-one (31), thence on an assumed bearing of North 90°00'00" East along the North line of said Southeast Quarter 232.27 feet; thence South 00°17'16" East 198.00 feet to the southerly line of the former right-of-way of the Chicago, Rock Island and Pacific Railroad and the point of beginning; thence continuing South 00°17'16" East 858.38 feet to the centerline of the existing Madison County highway; thence North 89°44'17" East along the centerline of the existing Madison County highway 281.58 feet; thence North 00°09'49" West 857.08 feet to the southerly line of said former railroad right-of-way; thence North 90°00'00" West 283.44 feet along said former right of way line to the point of beginning and containing 5.56 acres more or less, including 0.36 acres of highway right-of-way over the southerly 55.00 feet thereof;

ORDINANCE #553

An Ordinance reclassifying A portion of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter all in Section 1, Township 75 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of the Southeast Quarter of Section 1, Township 75 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa thence South 00°26'22" West 324.97 feet along the East line of said Northwest Quarter of the Southeast Quarter; thence North 89°18'13" West 47.28 feet to a point on the West right-of-way of 4<sup>th</sup> Avenue which is the Point of Beginning; thence North 89°18'13" West 500.95 feet; thence South 00°08'19" West 329.46 feet; thence North 89°11'25" West 772.35 feet to a point on the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; thence North 00°15'29" East 194.49 feet along said West line; thence North 88°49'02" West 153.22 feet; thence North 00°08'09" East 140.00 feet; thence North 88°49'02" West 10.00 feet; thence North 00°08'09" East 66.00 feet; thence South 88°52'34" East 934.32 feet; thence South 89°11'33" East 501.49 feet to a point on the West right-of-way line of 4<sup>th</sup> Avenue; thence South 00°11'57" East 66.00 feet to the Point of Beginning containing 8.567 acres.

- ORDINANCE #560 An Ordinance reclassifying the South Quarter Corner of Section 25, Township 76 North, Range 28 West of the 5th P.M., City of Winterset, Madison County, Iowa thence North 00°02'51" East 140.04 feet along the West line of the Southwest Quarter of the Southeast Quarter of said Section 25 to the Point of Beginning which is at the North right-of-way line of U.S. Highway No. 169/Iowa Highway No. 92; thence continuing North 00°02'51" East 399.66 feet; thence South 89°09'41" East 1319.90 feet to a point on the East line of said Southwest Quarter of the Southeast Quarter; thence South 00°08'28" West 399.75 feet along said East line to a point on the North right-of-way line of U.S. Highway No. 169/Iowa Highway No. 92; thence North 88°29'54" West 416.63 feet along said North right-of-way line; thence North 89°27'41" West 902.66 feet to the Point of Beginning containing 12.03 acres.
- ORDINANCE #567 An Ordinance reclassifying Lot 2 and Lot B of Plat 3, Nelson Acres Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #574 An Ordinance reclassifying The land use classification of the following described real estate is hereby changed from the C-Commercial Zoning District to the I-Industrial Zoning District, to-wit:  
The East Half (E½) of Lot 4 of Helen McCall Huntoon Addition Plat 1, City of Winterset, Madison County, Iowa.
- ORDINANCE #577 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the TD-1 Residential-Commercial Zoning District, for property located at 804 N. 1st Street and more particularly described as:  
Commencing at a point 33 feet west of the Southeast corner of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section Thirty-six (36), in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, and running thence North 132 feet; thence West 132 feet; thence South 132 feet; thence East 132 feet to the place of beginning.
- ORDINANCE #579 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the R-2 Residential Zoning District, for property legally described as: Lot 2 of Block 6, Birchwood Estates Plat No. 1, City of Winterset, Madison County, Iowa.
- ORDINANCE #583 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the DC-Downtown Commercial Zoning District for real estate legally described as:  
Lots 1, 2, 3, 4, 7 & 8 of Block 30, Original Town of the City of Winterset, Madison County, Iowa.
- ORDINANCE #587 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the R-2 Residential Zoning District for property located at 601 S. 7th Street and 623 S. 7th Street, and more particularly described as:  
Lot 1 & Lot 2 of Peterson Subdivision, City of Winterset, Madison County, Iowa.

- ORDINANCE #590 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the I-Industrial Zoning District for property described as: South 625 feet of Lot 15 of C & C Allen's Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #592 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed to the R-3 Multi-Family Residential District for property described as: Lot 4, Block 6, Birchwood Addition to the City of Winterset, Madison County, Iowa.
- ORDINANCE #595 An Ordinance reclassifying the land use classification is hereby changed to the Planned Unit Development (PUD) Zoning District for the real estate legally described as: Lot 4, Block 6, Birchwood Estates Plat 1, City of Winterset, Madison County, Iowa.
- ORDINANCE #598 An Ordinance reclassifying the land use classification of the following described real estate is hereby changed from the A-Agriculture Zoning District to the PUD Planned Unit Development Zoning District, to-wit:  
A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 76 NORTH, RANGE 28 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WINTERSET, MADISON COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF NORTH STONE VILLAGE PLAT 3, AN OFFICIAL PLAT; THENCE NORTH  $89^{\circ}10'11''$  WEST, 33.00 FEET TO THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH  $00^{\circ}03'17''$  EAST ALONG SAID WEST LINE, 244.57 FEET TO THE SOUTHWEST CORNER OF PARCEL 'F' AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 2005 PAGE 4170; THENCE SOUTH  $89^{\circ}44'22''$  EAST ALONG THE SOUTH LINE OF SAID PARCEL 'F', 229.89 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 'F'; THENCE NORTH  $00^{\circ}33'19''$  EAST ALONG THE EAST LINE OF SAID PARCEL 'F' AND THE NORTHERLY EXTENSION THEREOF, 531.89 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH  $89^{\circ}42'33''$  EAST ALONG SAID NORTH LINE, 425.99 FEET; THENCE SOUTH  $00^{\circ}16'53''$  WEST, 124.84 FEET; THENCE SOUTH  $89^{\circ}43'07''$  EAST, 106.82 FEET; THENCE SOUTH  $00^{\circ}16'53''$  WEST, 50.00 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 25.00 FEET, WHOSE ARC LENGTH IS 39.03 FEET AND WHOSE CHORD BEARS SOUTH  $45^{\circ}33'20''$  WEST, 35.19 FEET; THENCE SOUTH  $00^{\circ}49'47''$  WEST, 583.92 FEET TO THE NORTHEAST CORNER OF STREET LOT 'B', NORTH STONE VILLAGE PLAT 1, AN OFFICIAL PLAT; THENCE NORTH  $89^{\circ}10'11''$  WEST ALONG THE NORTH LINE OF SAID STREET LOT 'B' AND THE NORTH LINE OF NORTH STONE VILLAGE PLAT 3, AN OFFICIAL PLAT, 700.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 10.19 ACRES (443,885 SQUARE FEET).

ORDINANCE #599 An Ordinance reclassifying The zoning classification of the following described real estate is hereby changed from the TD-1 Residential-Commercial Transition District to the C-Commercial District, to-wit:

The South 47½ feet of Lot 1, Lot 2 and Lot 3 of Block 20 of the Pitzer & Knight Addition to the Town of Winterset, Madison County, Iowa.

And

The zoning classification of the following described real estate is hereby changed from the R-2 Residential District to the C-Commercial District, to-wit:

Lot 6 and the South 47½ feet of Lot 5 of Block 20 of the Pitzer & Knight Addition to the Town of Winterset, Madison County, Iowa.

ORDINANCE #600 An Ordinance reclassifying The zoning classification of the following described real estate is hereby changed from A-Agricultural District to the R-2 Residential District for property legally described as: Lots 1, 2, 3 and 4 of Stover Addition Plat 1, an Addition to the City of Winterset, Madison County Iowa.

ORDINANCE #620 An Ordinance reclassifying the zoning classification of the following described real estate is hereby changed from C-Commercial District to the TD-1 Residential-Commercial Transition District for property legally described as: A tract of land commencing at a point 231 feet West of the Southeast Corner of the Northeast Quarter (¼) of the Northeast Quarter (¼) of Section 36, Township 76 North, Range 28 West of the 5th Principal Meridian, Madison County Iowa, and running thence North 132 feet, then West 66 feet, thence South 66 feet, thence East 66 feet to a point of beginning.

ORDINANCE #626 An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from the R-2 Residential District to the TD-2 Downtown Commercial Transition District 224 E. Jefferson Street: The North Half (N ½) of Lot 1, Block 16 of Original Town, City of Winterset, Madison County Iowa. AND 116 N. 3rd Street: The South Half (S ½) of Lot 1, Block 16 of Original Town, City of Winterset, Madison County Iowa.

ORDINANCE #627 An Ordinance reclassifying the land use classification is hereby changed to the Planned Unit Development (PUD) Zoning District for the real estate legally described as: Lots 1, 2, 3, 4, and Lot 1 of the Replat of Lot 5, Block 1, Birchwood Estates Plat 1, City of Winterset, Madison County, Iowa.

ORDINANCE #628

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from the R-2 Residential District to the TD-1 Residential-Commercial Transition District for a parcel of land legally described as follows:

All that part of Lots 2, 3, 4, 5 and 6 of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section 1, Township 78 North, Range 28 West of the 5th P.M., now included in and forming a part of the City of Winterset, Madison County, Iowa, more particularly described as follows:

Commencing at the N 1/4 corner of said Section 1, thence North 89°14'18" West, along the North line of the NE 1/4 NW 1/4 of said Section 1, a distance of 601.86 feet; thence South 00°39'52" West, a distance of 57.08 feet to the Point of Beginning, being a point on the South Right of Way of Summit Street; thence South 75°46'37" East, along the South Right of Way of Summit Street, a distance of 62.37 feet; thence North 86°39'28" East, along the South Right of Way of Summit Street, a distance of 121.61 feet; thence South 01°28'15" East, a distance of 118.23 feet; thence South 89°21'18" East, a distance of 25.05 feet; thence South 03°27'33" East, a distance of 253.19 feet; to a point on the South line of said Lot 6; thence North 89°23'20" West, along the South line of Lots 6, 5 and 4, a distance of 428.05 feet, to the Southwest corner of said Lot 4; thence North 00°39'51" East, along the West line of said Lot 4 a distance of 217.31 feet, to the Northwest corner of said Lot 4; thence South 89°10'41" East, along the South line of said Lot 4, a distance of 198.54 feet; thence North 00°37'47" East, a distance of 160.44 feet to the Point of Beginning, and containing 119,923 square feet or 2.75 acres of land, more or less.

ORDINANCE #630

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from The land use classification of the following described real estate is hereby changed from the R-2 Residential to the C-Commercial Zoning District to-wit: LOT 1 CORKREAN & WATTS ADDN PLAT 1 CHURCH (1120 N 8<sup>TH</sup> Ave. Winterset, Iowa)

ORDINANCE #631

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from The land use classification of the following described real estate is hereby changed from the R-2 Residential to a PUD Planned United Development District to-wit: Lot Fifteen (15) of C&C Allen's Addition to Winterset, Madison County, Iowa, except the east 30 feet thereof. Said parcel containing 31.1 acres more or less.

ORDINANCE #640

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from The land use classification of the following described real estate is hereby changed from the A-Agricultural to the PUD Planned Unit Development to-wit:

Legal Description

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 76 NORTH, RANGE 28 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WINTERSET, MADISON COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF NORTH STONE VILLAGE PLAT 6, AN OFFICIAL PLAT; THENCE NORTH 89°10'13" WEST ALONG THE NORTH LINE OF SAID NORTH STONE VILLAGE PLAT 6, A DISTANCE OF 66.00 FEET; THENCE NORTH 00°49'47" EAST, 198.25 FEET; THENCE SOUTH 89°10'13" EAST, 66.00 FEET; THENCE SOUTH 89°10'11" EAST, 547.70 FEET; THENCE SOUTH 89°48'34" EAST, 66.00 FEET; THENCE SOUTH 00°11'26" WEST, 240.02 FEET; THENCE NORTH 89°48'34" WEST, 66.00 FEET; THENCE NORTH 89°10'11" WEST, 550.38 FEET TO THE WEST LINE OF SAID NORTH STONE VILLAGE PLAT 6; THENCE NORTH 00°49'47" EAST ALONG SAID WEST LINE, 41.75 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.69 ACRES (160,696 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

ORDINANCE #641

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from Parcel "O" located in the Southwest Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section Thirty (30), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5<sup>th</sup> P.M., Madison County, Iowa, containing 34.102 acres, as shown in Plat of Survey filed in Book 2020, Page 941 on March 27, 2020, in the Office of the Recorder of Madison County, Iowa.

ORDINANCE #649

An Ordinance reclassifying the zoning classifications of the following described real estate is hereby changed from A-Agricultural District to the R-Residential District A tract of land being The East Half (1/2) of the West Half (1/2) of the Northeast Quarter (1/4), of Section Thirty (30), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa filed in Book 2022, Page 1529 on May 23rd, 2022, in the Office of the Recorder of Madison County, Iowa.

ORDINANCE #651

ORDINANCE #652

ORDINANCE #653

**APPENDIX "E"**

**2021 INTERNATIONAL RESIDENTIAL CODE**

**1. Adoption of the 2021 International Residential Code.**

Pursuant to published notice and public hearing, as required by law, the International Residential Code, 2021 Edition, published by the International Code Council, is hereby adopted in full, including Appendix Chapters except for such portions as may be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The

following amendments, modifications, additions and deletions to the International Residential Code, 2021 Edition, are hereby made:

A. Insert Section R101.1 to read City of Winterset as the applicable jurisdiction.

B. Delete Section R105.2(Building1) and replace as follows:

3. One-story detached accessory structures, provided the floor area does not exceed 200 square feet; however, site plan approval shall be obtained from the Zoning Department.

C. Delete Sections R105.2(Building 2), R105.2(Building 4), R105.2(Building 5), and R105.2(Building 10). Replace section R105.2 (5) with the following language: Sidewalks shall be permitted and installed in accordance with approved site plan for individual lot development.

D. Amend Section R105.6 to include the addition of R105.6.1 Revocation of permit. Insert Section R105.6.1 to read: Revocation of Permit. It is the permit holder's responsibility to schedule the required inspections and obtain final approvals. Failure to schedule the required inspections and receive approval of work authorized by the permit before covering said work or at completion shall result in revocation of the permit and void any associated approvals granted by the City. This failure shall also equate to working without a permit in violation of City ordinance and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City. Failure to contact the City for any inspection or follow-up prior to expiration of a permit shall be deemed a violation of this code section. Failure to contact the City for any inspection or follow-up prior to expiration of a Temporary Certificate of Occupancy shall also be deemed a violation of this code section. Allowing occupancy of a structure, for which a person or company holds a building permit, prior to or without a valid Certificate of Occupancy (temporary or final) shall be deemed a violation of this

code section and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City.

- E. Add the following to Section R108.2 Schedule of Permit Fees with the following language:  
Permit fees will be derived from the City of Winterset Fee Schedule as adopted by Resolution of Council.

- F. Add the following to Section R108.3: The Building Valuation will be derived from the construction costs for the total work submitted by the contractor, or the most current Building Valuation Data Schedule published by the International Code Council (ICC). Submitted contractor valuation shall not be less than derived valuation through ICC. Published data is utilized by the Administrative Official in an effort to maintain consistency and fairness for permit fee calculations. It is not intended to reflect actual taxable value.

The method for determining the value of the additional listed residential items will be as follows: The square foot of the listed structure, times the Dwelling - Type V - Wood Frame value, times the % multiplier assigned to each listed item.

1. Open Decks - 8%
2. Screened Porches - 15%
3. In-ground Pools - 17%
4. Above-ground pools - 8%
5. 3 Season Porches - 50%
6. Detached Garages - 50%
7. Post Frame Buildings - 50%
8. Remodel/Renovation - 30%

- G. Amend Section R108.5 to read as follows: Fee Refunds. The administrative official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The administrative official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

The administrative official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

The administrative official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

- H. Amend Section R110.1 to add the following at the end of the paragraph:

On all new construction, all necessary walks, drives and approaches, and all seeding and sodding are to be installed before a final Certificate of Occupancy is issued.

- I. Table R301.2 to read as follows:

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
30	SPEED (MPH)	TOPOGRAPHIC EFFECTS	SPECIAL WIND REGION	WINDBORNE DEBRIS ZONE	A	WEATHERING	FROST DEPTH	TERMITE	0	YES	DEC. 2007	2000	48.6
	115	NO	NO	NO		SEVERE	42	MODERATE					

U. Amend Section R301.2.1.3 to add the following.

For purposes of determining wind loads, the minimum basic wind speed shall be considered as 115 miles per hour; except when referenced documents are based on fastest mile wind velocities, Table R301.2(1) shall be used.

- K. Amend Section R301.2.3 to add the following:

For purposes of determining snow loads, the minimum ground snow load for design purposes shall be 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

- L. Amend section R302.3 to read:

For purposes of fire-resistive separation, two family dwelling units shall be considered as townhouses and shall be constructed in accordance with R302.2

- M. Modify IRC Table 302.6 and replace with the following table:

TABLE R302.6

## DWELLING-GARAGE SEPARATION

SEPARATION	MATERIAL
From the residence and attics	Not less than 5/8-inch "X" gypsum board or equivalent applied to the garage side
From habitable rooms above the garage and structure(s) supporting floor/ceiling assemblies used for separation required by this section	Not less than 5/8-inch "X" gypsum board or equivalent
Garages located less than 5 feet from a dwelling unit on the same lot	Not less than 5/8-inch "X" gypsum board or equivalent applied to the interior side of exterior walls and ceilings within the garage

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

N. Delete Section R302.13

O. Amend Section R305.1.1 Exception to read:

Existing basements not having a height as specified in this section are allowed to be finished with a ceiling height that is not decreased more than the minimal measurement created by applying a finished ceiling of gypsum board or acoustical ceiling tiles.

P. Amend Section R310.2.3 to add the following exception:

A landing may be provided to meet the maximum sill height of forty-four (44) inches above the floor or landing provided. The landing shall be not less than thirty-six (36) inches wide, not less than twelve (12) inches out from the exterior wall, and not more than twenty-four (24) inches in height. The landing shall be permanently affixed to the floor below or the wall under the window it serves.

Q. Amend Section R310.6 Exception to read:

New habitable spaces created in an existing basement shall be provided with emergency escape and rescue openings in accordance with Section R310.1.

R. Amend Section R311.3.2 Exception to read:

A top landing is not required where a stairway of not more than four rises is located on the exterior side of a door, provided the door does not swing over the stairway.

- S. Amend Section R311.7.5.1 to add exception 3 with the following language:

The dimension of the top and bottom riser of a stair may vary up to 1-inch (25.4 mm) from the stairway riser dimension; however, in no case shall the riser height exceed seven and three-quarter inches.

- T. Amend Section R311.7.8.4 to add exception 3 with the following language:

Handrails within a dwelling unit or serving an individual dwelling unit shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

- U. Delete Section R313.1 and replace with the following:

313.1 Townhouses automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses.

Exceptions:

1. An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.
2. Townhouse structures where the conditioned square footage of the entire building is less than eighteen thousand (18,000) square feet. For purposes of this section, conditioned space shall be defined as space that can be occupied but shall not include garages or attics.
3. Townhouse structures that contain eight (8) or less dwelling units.

- V. Delete Section R313.2 and replace with the following:

313.2 One and two-family dwelling automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in one and two-family dwellings.

Exceptions:

1. An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing buildings that are not already provided with an automatic residential fire sprinkler system.
2. One and two-family dwellings containing less than eight thousand (8,000) square feet of floor space, excluding attached garages and other unenclosed areas.

W. Amend Section R317.1 to add the following:

8. Fences. Residential fences shall be chain link, ornamental iron, PVC/Composite, or approved wood. Wood used in fences shall be treated wood, or approved wood of natural resistance to decay.

X. Replace Table R403.1(1), (2), (3) with the following:

TABLE R403.1  
FOUNDATIONS FOR STUD BEARING WALLS

Number of Stories	Thickness of Foundation Walls <i>Unit Concrete Masonry</i>	Minimum Width of Footing (inches)	Thickness of Footing (inches)	Minimum Depth of Foundation Below Natural Surface of Ground and Finish Grade (inches)
1	8	8	8	42
2	8	8	8	42
3	10	10	12	42

Y. Delete Section R403.1.4.1 Exception 1 and replace with the following:

Accessory structures up to 200 square feet may be constructed on a 4-inch wood deck or 4-inch concrete slab. Protection for detached garages and other accessory structures 1024 square feet or less in size, located more than ten (10) feet from a dwelling, attached garage, or other principal structures, may be accomplished with a floating slab (monolithic). The floating slab shall include a thickened slab edge or a minimum eighteen (18) inches thick. Twelve inches of the thickened slab shall be below grade and six inches shall be above finished grade. The bottom portion of the thickened slab area shall be twelve (12) by twelve (12) inches. Two #4 rebar shall be placed within the thickened edge continuously around the perimeter of the slab. The floor shall be Portland cement concrete not less than four (4) inches thick. Garage floor areas

shall have all sod and/or debris removed. For detached garages and accessory structures exceeding 1024 square feet, frost protected footing and foundation shall be required.

Z. Delete Section R403.1.4.1 Exception 2.

AA. Amend Section R404.1 to add the following:

1. Scope. Notwithstanding other design requirements of Sections R404.1 - R404.1.5.2 of the International Residential Code, foundation retaining walls for one and two family dwelling occupancies of Type V construction may be constructed in accordance with this section, provided that use or building site conditions affecting such walls are within the limitations specified in this section. Concrete foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.3. Masonry foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.2. If backfill prior to a poured in place floor slab is desired, one of the following methods to provide bottom lateral support shall be completed: (1) a full depth (minimum 1-1/2") nominal 2" x 4" keyway may be formed into the footings to secure the bottom of the foundation wall -or- (2) 36" long vertical # 4 rebar may be embedded a minimum of 6" into the footings not to exceed 7' on center spacing.

BB. Amend Code to Add Code Section: IRC R404.1.3.2.3 Insert the following language and Table:

Table R404.1.3.2.3 - 'Foundation Walls for Conventional Light Frame Construction'

Height of Foundation Wall (Net measured from top of basement slab to top of	Thickness of Foundation Walls Unit	Reinforcement Type and placement within Foundation Wall**	Reinforcement Type and placement within Foundation Wall** (maximum 12' span between corners and)	Type of Mortar
Gross	Net	Concrete	Masonry	Masonry
8	7'	7 1/2"	8"	0.075 square

				horizontal bars, placement in the middle, and near the top & bottom - 1/2" bars @ 6' max.	inch bar 8' o.c. vertically in fully grouted cells. If block is 12" nominal thickness, may be	S. Grout & Mortar shall meet provisions of Chapter 21 IBC
9	8' 8"	8"	See Chapter 18 IBC	1/2" bars 2' o.c. horizontally & 20"	See Chapter 18 IBC	Same as above
10	9' 8"	8"	See Chapter 18 IBC	(5/8" bars 2' o.c. horizontally & 30" vertically o.c.)	See Chapter 18 IBC	Same as
*Concrete floor slab to be nominal 4". If such floor slab is not provided embedded in the footing @ maximum 7' O.C. spacing -and/or- 2) full depth nominal 2"depth x 4"width keyway in footing						
** All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be center of wall and meet the provisions of chapters 18, 19, and 21 of the						
NOTE: Cast in place concrete shall have a compressive strength of 3,000 lbs reinforcement of minimum 2 - Y2" diameter rebar throughout. Placement of requirements of Chapter 19 of the International Building Code.						
NOTE: Material used for backfilling shall be carefully placed granular soil drained with an approved drainage system as prescribed in Section 1805.4 of containing a high percentage of clay, fine silt or similar materials of low where backfill materials are not drained or an unusually high surcharge is designed wall shall be required.						
Note: Foundation plate or sill anchorage shall be installed in accordance with the respective codes as applicable.						

CC. Amend Chapter 11 Energy Efficiency -- Energy Efficiency, of the IRC is hereby amended by deleting this chapter and inserting the following:

Provisions of the International Energy Conservation Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be prescribed in "this code" and the regulations shall be known as the Waukee Energy Code.

DD. Amend Section R1601.4 to add the following:

Section 1601.4 Installation. Duct installation shall comply with sections M1601.4.1 through M1601.4.11

Section 1601.4.11. Air plenum and duct separation. Air plenums and ducts located in floor and wall cavities shall be separated from unconditioned spaces by construction with sufficient insulation to meet energy code requirements. These areas include but are not limited to exterior walls, cantilevered floors, and floors above garages.

- EE. Delete Section R G2414.5.2 (403.5.2) and replace with the following:

Section G2415.5.2 (403.5.2): Corrugated Stainless-Steel Tubing (CSST). Only CSST with an Arc Resistant Jacket or Covering System listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed in accordance with the terms of its approval, the conditions of listing, the manufacturers instructions and this code including electrical bonding requirements in Section G2411. CSST shall not be used for through wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.

- FF. Delete Section R G2414.5.4 (403.5.5) and replace with the following:

Section G2414.5.4 (403.5.5): Corrugated Stainless Steel Tubing. Arc resistant corrugated stainless steel tubing shall be listed in accordance with ANSI LC 1 (Optional Section 5.16)/CSA 6.26.

- GG. Amend section P2603.5.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall not be less than 60 inches below finished grade at the point of septic tank connection or as approved by Madison County Environmental Health. Building sewers shall not be less than 60 inches below grade.

- HH. Add Code Section IRC E3704.7 and insert the following language:

3704.7 Prohibited Locations. Feeders supplying a townhome shall not cross a property line other than the individual unit served. For the purposes of this provision, the term townhome shall mean a single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from foundation to roof and with a yard or public way on not less than two sides.

Exception: If a recorded easement is established in a concealed space or attic within the townhome unit, feeds are allowed within the easement.

## 2021 INTERNATIONAL BUILDING CODE

**1. Adoption of the 2021 International Building Code.** Pursuant to published notice and public hearing, as required by law, the International Building Code, 2021 Edition, published by the International Code Council, is hereby adopted in full to include Appendix K except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Building Code, 2021 Edition, are hereby made:

- A. Insert Section 101.1 to read City of Winterset
- B. Delete Sections 105.2(Building 2), 105.2(Building 5), 105.2(Building 6).
- C. Amend Section R105.6 to include the addition of R105.6.1 Revocation of permit. Insert Section R105.6.1 to read: Revocation of Permit. It is the permit holder's responsibility to schedule the required inspections and obtain final approvals. Failure to schedule the required inspections and receive approval of work authorized by the permit before covering said work or at completion shall result in revocation of the permit and void any associated approvals granted by the City. This failure shall also equate to working without a permit in violation of City ordinance and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City. Failure to contact the City for any inspection or follow-up prior to expiration of a permit shall be deemed a violation of this code section. Failure to contact the City for any inspection

or follow-up prior to expiration of a Temporary Certificate of Occupancy shall also be deemed a violation of this code section. Allowing occupancy of a structure, for which a person or company holds a building permit, prior to or without a valid Certificate of Occupancy (temporary or final) shall be deemed a violation of this code section and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City.

- D. Add the following to Section 109.2 Schedule of Permit Fees with the following language:  
Permit fees will be derived from the City of Winterset Fee Schedule as adopted.
- E. Add the following to Section R109.3: The Building Valuation will be derived from the construction costs for the total work submitted by the contractor, or the most current Building Valuation Data Schedule published by the International Code Council (ICC). Submitted contractor valuation shall not be less than derived valuation through ICC. Published data is utilized by the Administrative Official in an effort to maintain consistency and fairness for permit fee calculations. It is not intended to reflect actual taxable value.
- F. Delete Section 308.5.4 and replace with the following:  
308.5.4 Eight or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having eight or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.  
Exception:  
Day Care facilities that provide custodial care for 16 or fewer persons for less than 24 hours per day in a single family dwelling, and where registered with the State of Iowa Department of Human Services as a child development home are permitted to comply with the International Residential Code.
- G. Delete Section 310.4.1 and replace with the following:  
310.4.1 Care facilities within a dwelling. Care facilities within a dwelling shall adhere to section 308.5.4.
- H. Amend Section 423.5 to delete entire section including subsections 423.5.1 and 423.5.2 and replace with the following language:  
423.5 Group E occupancy. In areas where the shelter design wind speed for tornadoes is 250 mph in accordance

with Figure 304.2 (1) of ICC 500, all Group E occupancies with a program occupant load of 50 or more shall have a storm shelter constructed in accordance with Chapters 1 through 5 & 8 of ICC 500.

Exceptions:

- 1 Group E day care facilities.
2. Group E occupancies accessory to place of religious worship.
3. Buildings meeting the requirements for shelter design in ICC 500.
4. Accessory structures to existing group E sites where the occupancy classification of said structures are classified as Groups A-5 and U.

423.5.1 Required Occupant Capacity. The required occupant capacity of the storm shelter shall include all buildings classified as a Group E occupancy on the campus or site (whichever is larger) and shall be the greater of the following:

1. The total occupant load of the classrooms, vocational rooms and offices in the Group E occupancy.
2. The occupant load of any indoor assembly space that is associated with the Group E occupancy.

Exceptions:

1. Where a new building is being added on an existing Group E site, and where the new building is not of sufficient size to accommodate the required occupant capacity of the storm shelter for all of the buildings on-site, the storm shelter shall at a minimum accommodate the required capacity for the new building.
2. Where approved by the code official, the required occupant capacity of the shelter shall be permitted to be reduced by the occupant capacity of any existing storm shelters on the campus or site.

423.5.2 Location. Storm shelters shall be located within the buildings they serve, or shall be located where the maximum distance of travel from not fewer than one exterior door of each building to a door of the shelter serving that building does not exceed 1,000 feet.

The installation of portable buildings for utilization on the campus or site for educational purposes is considered new construction and classified as Group E occupancies.

Exception: Existing schools undergoing alterations, additions, or construction of new accessory buildings.

- I. Delete Code Section: IBC 502.1 (Correlation IFC 505.1)

and replace with the following language:

502.1 Address identification. New and existing buildings shall have *approved* address numbers, building numbers or *approved* building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the *fire code official*, address numbers shall be provided in greater dimension or additional *approved* locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and a minimum stroke width as dictated by Table 502.1. Where access is by means of a private road and the building cannot be viewed from the *public way*, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

Table 502.1  
Minimum Height and Stroke Width

Distance from the centerline of the Public Way (ft)	Minimum Height (in)	Minimum Stroke Width (in)
Less than 100	4	1/2
100	6	3/4
200	8	1
For each additional	Increase 2	Increase 1/2

<sup>a</sup> Exterior suite identification, minimum height shall be 4 inches and stroke width shall be  $1/2$  inch.

<sup>b</sup> Interior suite identification, minimum height shall be 2 inches and stroke width shall be  $1/4$  inch.

J. Modify IBC Section 716.2.6.1 to add the following language after the last sentence:  
Automatic, self-closing, UL listed hinges may only be installed on the dwelling room entry door.

K. Add Section 902.1.1.1 (Correlation IFC 901.4.6.1) to include the following language:

902.1.1.1 Fire Sprinkler Riser Room. A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment (lighting, air compressor, and heater) required for the use of the fire sprinkler system and/or the fire alarm panel. The sprinkler riser room shall not

be accessed from the electrical room, but the electrical room may be accessed from the fire riser room.

- L. Add new code section IBC 902.1.5 (Correlation IFC 901.4.6.5 **Error! Reference source not found.**) to include the following language:

902.1.5 Temperature Sensor. Provide a low temperature sensor in the fire sprinkler riser room. Low Temperature Sensor shall be monitored to prevent freezing.

- M. Delete Section 903.2.11.1.3 and replace with the following:

903.2.11.1.3 Basements. Where any portion of a basement is located more than 75 feet (22 860 mm) from openings required by Section 903.2.11.1, the basement shall be equipped throughout with an approved automatic sprinkler system.

- N. Delete Section 903.4.2 and replace with the following:

903.4.2 Alarms. An approved weatherproof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

- O. Amend Section 1008.3.3. to add the following locations with sequential numbering:

5. Public restrooms containing more than one water closet/urinal or that are accessible.

6. Meeting and conference rooms with an area greater than 400 square feet.

7. Classrooms in an E occupancy with an area greater than 400 square feet.

- P. Amend Section 1009.2 to add the following:

11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

- Q. Add Section 1010.1.6.1 with the following language:

1010.1.6.1 For landings required by Section 1010.1.5 to be at the same elevation on each side of the door,

exterior landings at doors shall be provided with frost protection.

R. Amend Section 1010.2.2 to add the following:

Thumb Turn Locks shall not be allowed.

S. Add the following Section 1013.1.1:

1013.1.1 Additional Exit Signs. Exit signs may be required at the discretion of the Administrative Official to clarify an exit or exit access.

T. Delete Sections 1013.5 and 1013.6 including 1013.6.1, 1013.6.2 and 1013.6.3.

U. Add the following Section 1028.5.1:

1028.5.1 Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

V. Modify Code Section: IBC 1301.1 and replace with the following language:

Section 1301.1 Scope. The provisions of the International Energy Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in chapter 1 of the current State adoption of the IECC and these regulations shall be known as the Winterset Energy Code.

W. Amend Section 1608.2 to add the following: For purposes of determining snow loads, the minimum ground snow load for design purposes shall be 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

X. In Section 1609.1.1 add the following: For purposes of determining wind loads, the minimum basic wind speed shall be considered as 115 miles per hour; except when referenced documents are based on fastest mile wind velocities, Table 1609.3(1) shall be used.

Y. Add the following to Section 1807.1 Foundation Retaining Walls for Group R Occupancies:

1. Scope. Notwithstanding other design requirements of Chapters 18, 19 and 21 of the International Building Code, foundation retaining walls for Group R

occupancies of Type V construction may be constructed in accordance with this section, provided that use or building site conditions affecting such walls are within the limitations specified in this section.

2. Specifications. General specifications for such foundation retaining walls shall be as follows:

Table - 'Foundation Walls for Conventional Light Frame Construction'

Height of Foundation Wall (Net measured from top of basement slab)		Thickness of Foundation Walls		Reinforcement type and placement within Foundation Wall**	Reinforcement type and placement within Foundation Wall** (maximum 12' span between corners and supporting areas)	Type of Mortar
Gross	Net	Concrete	Masonry	Concrete	Masonry	Masonry
8	7'	7 1/2"	8"	1/2" horizontal bars, placement in the middle, and near the top & bottom - Y2" bars @ 0.075 square inch bar 8' o.c. vertically in fully grouted cells. If block is 12" nominal thickness, may	0.075 square inch bar 8' o.c. vertically in fully grouted cells. If block is 12" nominal thickness, may	Type M or S. Grout & Mortar shall meet provisions of
9	8'	8"	See Chapter	1/2" bars 2' o.c.	See Chapter 18 IBC	Same as above
10	9'	8"	See 18 IBC	horizontally (5/8" bars 2' o.c. horizontally & 30" vertically o.c.)	See Chapter 18	Same as
<p>*Concrete floor slab to be nominal 4". If such floor slab is not provided embedded in the footing @ maximum 7' O.C. spacing -and/or- 2) full depth nominal 2" depth x 4" width keyway in footing</p> <p>** All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be center of wall and meet the provisions of chapters 18, 19, and 21 of the International Building Code</p>						
<p>NOTE: Cast in place concrete shall have a compressive strength of 3,000 lbs reinforcement of minimum 2 - 1/2" diameter rebar throughout. Placement of requirements of Chapter 19 of the International Building Code.</p> <p>NOTE: Material used for backfilling shall be carefully placed granular soil drained with an approved drainage system as prescribed in Section 1805.4 of containing a high percentage of clay, fine silt or similar materials of low where backfill materials are not drained or an unusually high surcharge is designed wall shall be required.</p>						
<p>Note: Foundation plate or sill anchorage shall be installed in accordance with the respective codes as applicable.</p>						

Z. Replace Table 1809.7 with the following:

TABLE 1809.7  
FOUNDATIONS FOR STUD BEARING WALLS

Number of Stories	Thickness of Foundation Walls Unit <i>Concrete Masonry</i>	Minimum Width of Footing (inches)	Thickness of Footing (inches)	Minimum Foundation Below Natural Surface of Ground and Finish Grade (inches)	Depth of
1	8	8	16	8	42
2	8	8	16	8	42
3	10	10	18	12	42

#### 2021 INTERNATIONAL EXISTING BUILDING CODE

**1. Adoption of the 2021 International Existing Building Code.**

Pursuant to published notice and public hearing, as required by law, the International Existing Building Code, 2021 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Existing Building Code, 2021 Edition, are hereby made:

A. Add the following to Section 108.2 Schedule of Permit Fees with the following language:

Permit fees will be derived from the City of Winterset Fee Schedule as adopted.

B. Add New Code Section: IEBC 302.6 with the following language:

Section 302.6 Fire Protection. Existing buildings containing R-2 occupancies shall be made to comply with the International Building Code Section 903.2.8 within two (2) years of any of the following situations:

1. Fire damage to three or more dwelling units, not including smoke or water damage or other damage from fire-fighting operations.

2. Issuance of a building permit for a Level III alteration as identified in Chapter 6 of the International Existing Building Code.

#### 2020 NATIONAL ELECTRICAL CODE

**1. Adoption of the 2020 National Electrical Code.** Pursuant to published notice and public hearing, as required by law, the currently adopted by the State of Iowa Edition of the National Electrical Code, published by the National Fire Protection Association, is hereby

adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the National Electrical Code, as currently adopted by the State of Iowa, are hereby made:

A. Amend Section 90.2 to add the following language:

90.2(D) Scope. Permits required. Permits shall be required for work contained within the scope of this article. Permit fees will be derived from the City of Winterset Fee Schedule as adopted.

B. Delete section 210.8(A). and insert in lieu thereof the following new section:

210.8 (A) Dwelling Units.

All 125-volt receptacles installed in locations specified in 210.8 (A)(1) through 2108 (A)(11) shall be ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms

(2) Garages and also accessory buildings that have floor located at or below grade level not intended to be habitable rooms and limited to storage areas, work areas, or similar use

(3) Outdoors

Exception to (3) Receptacles that are not readily accessible and are supply branch circuits dedicated to electrical snow-melting, deicing, or pipeline and Bessel heating equipment shall be permitted to be installed in accordance with 426.28m or 427.22, as applicable

(4) Crawl spaces - at or below grade level

(5) Basements

Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41B and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception to 210.8 (A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens - Where the receptacles are installed to serve the countertop surfaces

(7) Sinks - Where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(8) Boathouses

(9) Bathtubs or shower stalls - Where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(10) Laundry areas

Exception to (1) through (3), (5) through (8), and (1): Listed locking support and mounting receptacles utilized in combination with compatible attachment fittings installed for the purpose of serving a ceiling luminaire or ceiling fan shall not be required to be groundfault circuit-interrupter protected. If a general-purpose convenience outlet is integral to the ceiling luminaire or ceiling fan, GFCI protection shall be provided.

(11) Indoor damp and wet locations

C. Delete section 210.8(F)

D. Add Code Section NEC 215.13 Prohibited Locations with the following language:

NEC 215.13 Prohibited Locations. Feeders supplying townhomes shall not extend through any townhome unit other than the unit served. For the purpose of this provision, the term townhome shall mean a single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to roof with a yard or public way on not less than two sides.

Exception: If a recorded easement is established in a concealed space or attic within a townhome unit, feeders are allowed within that easement.

## 2021 UNIFORM PLUMBING CODE

**1. Adoption of the 2021 Uniform Plumbing Code.** Pursuant to published notice and public hearing, as required by law, the Uniform Plumbing Code, 2021 Edition, published by the International Association of Plumbing and Mechanical Officials and amended by the State of Iowa, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the Uniform Plumbing Code, 2021 Edition, are hereby made:

The City of Winterset interprets the 2021 International Plumbing Code as published by the International Code Council as an equivalent alternative to the 2018 Uniform Plumbing Code.

A. UPC Section 104.5: Delete Table 104.5 and insert the following language: permit fees will be derived from the City of Winterset Fee Schedule as adopted.

- B. Amend Section UPC 407.3 to include the following language at the end of the Code section:  
Tempering devices shall be installed at or as close as possible to the point of use.
- C. Amend Section UPC 418.3 to include location #5 with the following language:  
Rooms containing a water heater.
- D. Amend Section UPC 609.1 to add the following language:  
  
Water service piping shall have no less than five feet (5') of soil cover.
- E. Amend Section UPC 701.2 to add the following language:  
  
(7) The use of SDR 23.5 is an acceptable material for exterior building sewers.
- F. Amend Section UPC 717.1 to add the following language:  
  
717.1.1 Size of Drainage Piping. The main building drain shall be a minimum four inch (4") diameter.
- G. Amend Section UPC 718.3.1 to add the following language:  
  
718.3.1 Protection from damage. Building sewers less than 42 inches below grade shall be cast iron pipe or be protected with an engineered system to prevent damage from freezing and frost heave.
- H. Amend Section UPC 1014.1 to add the following language:  
  
Notwithstanding provisions of section 1014.1, regulations of Fat Oil and Grease (FOG) and sizing of FOG removal devices where connected to Wastewater Reclamation Authority (WRA) system shall be in accordance with WRA regulations for the regulations of industrial wastewater and commercial wastewater.
- I. Delete Section UPC 1101.12.2.2.2 Combined System.
- J. Amend Section UPC 1208.6.4.4 to add the following language:  
  
1208.6.4.4 Corrugated Stainless Steel Tubing. Only CSST with an Arc Resistant Jacket or Covering System listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed in accordance with the terms of its approval, the conditions of listing, the

manufactures instructions and this code including electrical bonding requirements in Section 1211.2. CSST shall not be used for through wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.

## **2021 INTERNATIONAL FIRE CODE**

**1. Adoption of the 2021 International Fire Code.** Pursuant to published notice and public hearing, as required by law, the International Fire Code, 2021 edition, including Appendix Chapters B, C, D, I, K, and N (see International Fire Code Section 101.2.1, 2021 edition), as published by the International Code Council, is hereby adopted in full as the Fire Code of City of Winterset, for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this resolution.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Fire Code, 2021 Edition, are hereby made:

- A. Section 101.1. Insert: [City of Winterset]
- B. Code Section 109: Refer to Winterset Board of Appeals.
- C. Delete Code Section: IFC 308.1.4 Replace with the following language:

**308.1.4 Open-flame cooking devices.** Charcoal burners, other open-flame cooking devices, and other devices that produce ashes or embers shall not be operated on balconies or within 20 feet (3048 mm) of combustible construction. Location of LP containers shall comply with Section 6104. **Exceptions:**

1. One- and two-family dwellings, constructed in accordance with the International Residential Code.
2. LP-gas cooking devices having LP-gas container with a water capacity not greater than 20 pounds.

D. Insert New Code Section:

**319.11 Location.** Mobile food vehicles shall not be located within 20 feet (6096 mm) of buildings, tents, canopies or membrane structures.

E. Insert New Code Section: IFC 503.1.4 Insert the following language:

**503.1.4 Outdoor Venue Access.** A 10 ft. wide emergency access roads designed to support 36,000 lb. weight load shall be provided within 350-feet of all portions of an outdoor venue (e.g. soccer complex, park, skate park, sports fields) to facilitate emergency vehicle access.

**Exception:** The fire code official is authorized to increase the dimension of 350 feet where emergency access roads cannot be installed because of location on property, topography, waterway, nonnegotiable grades, or other similar conditions, and an approved alternative means of emergency access is provided.

F. Delete Code Section: IFC 505.1 Replace with the following language:

**505.1 Address identification.** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the fire code official, address numbers shall be provided in greater dimension or additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and a minimum stroke width as dictated by Table 505.1. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

Table 505.1  
Minimum Height and Stroke Width

Distance from the centerline of the Public Way (ft)	Minimum Height (in)	Minimum Stroke Width (in)
Less than 100	4	$\frac{1}{2}$
100   199	6	$\frac{3}{4}$
200   299	8	1
For each additional 100	Increase 2	Increase 1/2

<sup>a</sup> Exterior suite identification, minimum height shall be 4 inches and stroke width shall be  $\frac{1}{2}$  inch.

<sup>b</sup> Interior suite identification, minimum height shall be 2 inches and stroke width shall be  $\frac{1}{4}$  inch.

G. Modify Code Section: IFC 508.1 Replace with the following language:

**508.1 General.** Where required by other sections of this code, Table 508.1, and in all buildings classified as high-rise buildings by the International Building Code, a fire command center for fire department operations shall be provided and shall comply with Sections 508.1.1 through 508.1.6.

H. Add Code Section: IFC Table 508.1 Add the following language:

Table 508.1 Fire Command Center Thresholds

Occupancy	Threshold Requiring a Fire Command Center
Group A	1,000 occupants
Group E	100,000 gross square feet
Group F	200,000 gross square feet
Group H	100,000 gross square feet
Group I-2 or I-3	100,000 gross square feet
Group M	100,000 gross square feet
Group R1	Greater than 200 dwelling units or sleeping units
Group S	200,000 gross square feet

I. Modify Code Section IFC 705.2.4 and replace with and add the following language:

**705.2.4 Door Operation.** Swinging fire doors shall close from the full open position and latch automatically. The door closer shall:

1. Exert enough force to close and latch the door from any partially open position.
2. Be UL listed and of hydraulic type, spring type shall not be allowed.

- J. Insert New Code Section: IFC 901.4.6.1.1 (correlation: IBC 902.1.1.1) Insert the following language:

901.4.6.1.1 Fire Sprinkler Riser Room. A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment (lighting, air compressor, and heater) required for the use of the fire sprinkler system and/or the fire alarm panel. The sprinkler riser room shall not be exclusively accessed from the electrical room, but the electrical room may be accessed from the fire riser room.

- K. Insert New Code Section: IFC 901.4.6.5 (correlation IBC 902.1.5) Insert the following language:

**901.4.6.5 Temperature Sensors.** Provide a low temperature sensor in the fire sprinkler riser room. Low Temperature Sensor shall be monitored to prevent freezing.

- L. Insert New Code Section IFC 903.3.1.1.3 (correlation: IBC 903.3.1.1.3)

**903.3.1.1.3 Sprinkler installed under exterior projections.** A canopy covering a door that is required to be marked as an exit shall be required to have fire sprinklers installed outside that door if the canopy extends more than 4 feet out from the door and is 12 feet or less in height from the ground regardless of whether the canopy is combustible or non-combustible. Canopies that have vehicle access under them with door openings shall be required to have fire sprinklers installed under the total canopy regardless of whether the canopy is combustible or non-combustible.

- M. Modify Code Section IFC 903.3.1.2 (correlation: IBC 903.3.1.2) and replace with the following language:

**903.3.1.2 NFPA 13R sprinkler systems.** Automatic sprinkler systems in Group R occupancies up to and including four stories in height in buildings not exceeding 60 feet (18288 mm) in height above grade plane shall be permitted to be installed throughout in accordance with NFPA 13R. Attics shall be protected throughout with an automatic sprinkler system installed in accordance with NFPA 13.

- N. Modify Code Section: IFC 903.2.11.1.3 (correlation: IBC 903.2.11.1.3) Replace with the following language:

**903.2.11.1.3 Basements.** Where any portion of a basement is located more than 75 feet (22 860 mm) from openings

required by Section 903.2.11.1, the basement shall be equipped throughout with an approved automatic sprinkler system.

- O. Modify Code Section: IFC 903.4.2 (correlation: IBC 903.4.2) Replace with the following language:

**903.4.2 Alarms.** An approved weather proof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

- P. Modify Code Section: IFC 1008.3.3 (correlation: IBC 1008.3.3) Replace with the following language:

**1008.3.3** Rooms and spaces. In the event of a power supply failure, an emergency electrical system shall automatically illuminate all of the following areas:

1. Electrical equipment rooms
2. Fire command centers
3. Fire pump rooms
4. Generator rooms
5. Public restrooms that contain more than one water closet/urinal or that are accessible
6. Meeting/conference rooms with an area greater than 400 square feet.
7. Classrooms in an E occupancy with an area greater than 400 square feet.

- Q. Modify Code Section: IFC 1009.2 (correlation: IBC 1009.2) Insert item # 11 with the following language:

**11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.**

- R. Add Code Section: IFC 1010.1.6.1 (correlation: IBC 1010.1.6.1) Insert the following language:

**1010.1.6.1 Frost Protection.** Landings required by Section 1010.1.5 to be at the same elevation on each side of the door exterior landings at doors shall be provided with frost protection.

S. Modify Code Section: IFC 1010.1.9.1 (correlation: IBC 1010.1.9.1) Replace with the following language:

**1010.1.9.1 Hardware.** Door handles, pulls, latches, locks and other operating devices on doors required to be accessible by Chapter 11 of the International Building Code shall not require tight grasping, tight pinching or twisting of the wrist to operate. This includes thumb turn locks.

T. Insert Code Section: IFC 1013.1.1 (correlation: IBC 1013.1.1) Language:

**1013.1. 1 Additional Exit Signs.** Exit signs may be required at the discretion of the Code Official to clarify an exit or exit access.

U. Modify Code Section: IFC 1014.4 (correlation: IBC 1014.4) Insert item # 6 with the following language:

Handrails within a dwelling unit or serving an individual dwelling unit of groups R-2 and R-3 shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

V. Add Code Section: IFC 1015.9 (correlation: IBC 1015.9) Insert the following language:

**1015.9 Walking surfaces.** A guard shall be provided along retaining walls where a finished walking surface such as sidewalks, patios, driveways and parking lots or similar is located on the top side of a retaining wall. The guard shall be installed along any portion of the wall measuring 30 inches or greater in height measured at any point within 36 inches horizontally to the edge of the open side. A guard shall not be required along portions of the retaining wall where the horizontal distance between the edge of the finished walking surface and the face of the wall is greater than 72 inches.

W. Insert Code Section: IFC 1028.5.1 (correlation: IBC 1028.5.1) Insert the following language:

**1028.5.1 Hard Surfaces.** Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

X. Insert Code Section: IFC 1031.5.3 (correlation: IBC 1030.4.3) Insert the following language:

**1031.5.3 Window wells drainage.** All window wells shall be provided with approved drainage.

- Y. Insert New Code Section: IFC 1203.7 Insert the following language:

**Section 1203.7 Shutdown of Emergency and Standby Power Systems.** In addition to the requirements of NFPA 110 for a remote manual stop, a switch of an approved type shall be provided to shut down the generator. The switch shall be provided at an approved location.

- Z. Insert New Code Section: IFC 1203.8 Insert the following language:

**Section 1203.8 Emergency Generator Signs.** Main electrical disconnects and main breaker panels supplied by the generator shall be provided with approved signs.

Additionally, doors accessing emergency and standby power systems shall be provided with approved signs. When approved switches for emergency power shut-down are located remote from the fire alarm annunciator, an approved sign shall be provided at fire alarm annunciator. Approved signs shall contain the word CAUTION in black letters at least 2 inches (50 mm) high on a yellow background. Such warning signs shall be placed so as to be readily discernible.

- AA. Insert New Section 3106.3.1

**3106.3.3 Occupancy and means of egress.** The number and location of emergency egress and escape routes shall be approved by the fire code official. Exits shall comply with Chapter 10 and be as remote from each other as practical and shall be provided as follows:

Occupant Load	Minimum Number of Exits
1 to 500	2
501 to 1,000	3
1,001 to 1,500	4
Each additional 500 persons	36 additional inches of exit width

**3106.3.4 Width.** The aggregate clear width of exits shall be a minimum of 36 inches wide (914mm) for each 500 persons to be accommodated.

**3106.3.5 Signs.** Exits shall be identified with signs that read "EXIT". The signs shall be weather-resistant with lettering on a contrasting background. The lettering shall be of sufficient height and brush stroke to be

immediately visible from 75 feet (22,860mm). Placement of the exit signs shall be approved by the fire code official.

- BB. Insert Code Section: IFC 6104.3.3 Insert the following language:

**6104.3.3 LP Gas Containers in Group R Occupancies.** LP Gas shall not be stored or used inside of a building.

## **2021 INTERNATIONAL MECHANICAL CODE**

**1. Adoption of the 2021 International Mechanical Code.** Pursuant to published notice and public hearing, as required by law, the International Mechanical Code, 2021 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Mechanical Code, 2021 Edition, are hereby made:

- A. The City of Winterset interprets "NFPA 54 and NFPA 58" as equivalent alternatives for design to meet the intent of the 2021 International Fuel Gas Code

- B. Amend Section 109.5 to add the following:  
Permit fees will be derived from the City of Winterset Fee Schedule as adopted.

- C. Amend Section 306.5 to add the following:

If the tenants of a multiple tenant building have, or are allowed to have, mechanical facilities on or which penetrate the roof, then roof access ladders must be provided for use by all such tenants and their agents and contractors in a manner that does not require accessing space under the control of another tenant.

- D. Delete Section 307.2.4.1 and replace with the following:

307.2.4.1 Ductless mini-split system traps. Ductless mini-split equipment that produces condensate shall be installed per manufacturer's instructions.

- E. Amend Section 603.1 to add the following:

Air plenums and ducts located in floor and wall cavities shall be separated from unconditioned space by construction with insulation to meet energy code requirements. These areas include but are not limited to exterior walls, cantilevered floors, and floors above garages.

## **2021 INTERNATIONAL FUEL GAS CODE**

**1. Adoption of the 2021 International Fuel Gas Code.** Pursuant to published notice and public hearing, as required by law, the International Fuel Gas Code, 2021 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Fuel Gas Code, 2021 Edition are hereby made:

A. Amend Section 106.6.2 to include the following language: Permit fees will be derived from the City of Winterset Fee Schedule as adopted.

B. Delete Section 5.6.3.4 and replace with the following:

5.6.3.4 Corrugated Stainless Steel. Only CSST with an Arc Resistant Jacket or Covering System listed in accordance with ANSI LC-1 (Optional Section 5.16)/CSA 6.26-2016 shall be installed in accordance with the terms of its approval, the conditions of listing, the manufacturer's instructions and this code including electrical bonding requirements in Section 7.13.2. CSST shall not be used for through wall penetrations from the point of delivery of the gas supply to the inside of the structure. CSST shall not be installed in locations where subject to physical damage unless protected in an approved manner.

## **2021 INTERNATIONAL PROPERTY MAINTENANCE CODE**

**1. Adoption of the 2021 International Property Maintenance Code.** Pursuant to published notice and public hearing, as required by law, the International Property Maintenance Code, 2021 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or

amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Property Maintenance Code, 2021 Edition, are hereby made:

- A. Amend Section 101.1 Title to insert Winterset as the jurisdiction referenced.
- B. Amend Section 103.5 Fees to include the following language: Permit fees will be derived from the City of Winterset Fee Schedule as adopted.
- C. Amend Section 302.4 to delete [JURISDICTION TO INSERT HEIGHT IN INCHES] and replace with "X inches in height on developed properties and X inches in height on undeveloped properties."
- D. Amend Section 304.14 to read as follows:

During the period from April 15<sup>th</sup> to October 15<sup>th</sup>, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

- E. Amend Section 602.3 by deleting "[DATE] to [DATE]" and replacing with September 1 to May 30.
- F. Amend Section 602.4 by deleting "[DATE] to [DATE]" and replacing with September 1 to May 30.
- G. Insert new sentence prior to last sentence of paragraph in Section 605.2 with the following language:  
Any accessible receptacle within 6 feet of a water source shall be provided with Ground-Fault Circuit-Interrupter Protection.
- H. Amend Section 705.1 to add the following language to the end of the paragraph: In addition, carbon monoxide alarms and detectors shall be installed in accordance with Iowa Code Section 661-Chapter 211.

- I. Add new Section 705.3 with the following language:  
705.3 Installation Locations. Installation locations shall be in conformance with the International Fire Code, the International Residential Code, Iowa Code, and at the location closest to the hazard of an attached garage or fuel-fired appliance.

## **2012 INTERNATIONAL ENERGY CONSERVATION CODE**

**1. Adoption of the 2012 International Energy Conservation Code.** Pursuant to published notice and public hearing, as required by law, the International Energy Conservation Code, 2012 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

**2. Amendments, Modifications, Additions and Deletions.** The following amendments, modifications, additions and deletions to the International Energy Conservation Code, 2012 Edition, are hereby made:

- A. The provisions of the International Energy Code as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency.
- B. Delete Sections 101.1, 101.2, 103.3.1, 103.3.2, 103.3.3, 103.4, 103.5, and all of Sections 104, 107, 108 and 109.
- C. All energy code compliance inspections shall be completed by a third party certified to do such inspections with a report submitted to the Administrative Official showing compliance with the State adopted energy code.
- D. Add Code Section C402.1.1.1 Seasonal Structures with the following language:

C402.1.1.1 Seasonal Structures. The following seasonal type structures are exempt from meeting the provisions of this code. (These facilities are allowed to have heating and/or cooling equipment for temporary comfort of patrons and employees during operating hours.)

- 1. Food Service Buildings that serve patrons at amusement parks, water parks, and outdoor sporting facilities. The buildings can only be occupied by employees, must not be able to allow patrons to be served within the facility and must have its sole means of servicing customers, an operable exterior

serving window.

2. Restroom Facilities that serve amusement parks, water parks, and outdoor sporting facilities.

E. Delete Section C408.2 and replace with the following:

Mechanical systems and service water-heating systems commissioning and completion requirements. Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section. The Commissioning Agent shall be in no way affiliated with the project's design, installation or sale of products, to avoid any conflict of interest. The Commissioning Agent shall be accredited by an industry-recognized certification program, to be determine

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